

FEDERAL COURT

B E T W E E N:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

RESPONDING MOTION RECORD OF THE ATTORNEY GENERAL OF CANADA

Applicant's Motion to Amend the Notice of Application

April 11, 2022

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File No. T-306-22, T-316-22
T-347-22, T-382-22

FEDERAL COURT

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

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- and -

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*** * * * ***

CASE MANAGEMENT CONFERENCE

PROCEEDINGS HELD

By Videoconference

*** * * * ***

BEFORE :

Prothonotary Martha Milczynski

APPEARANCES :

Mr. Alex Boissonneau-Lehner for the Applicants
Mr. Brendan Miller
Mr. Sujit Choudhry

Mr. John Provart for the Respondent
Ms. Kathleen Kohlman
Mr. Andrew Gibbs

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1 By videoconference

2 --- Upon commencing on Unknown Date, 2022 at unknown time.

3 THE REGISTRAR: All right. Counsel, you're
4 with Prothonotary Milczynski for the CMC on T-306-22, T-
5 316-22, T-347-22, and T-382-22.

6 PROTHONOTARY MILCZYNSKI: Good morning.

7 UNKNOWN SPEAKER: Good morning.

8 MR. MILLER: Good morning.

9 PROTHONOTARY MILCZYNSKI: Thank you, first
10 of all, for making yourselves available on such short
11 notice this morning.

12 There are really only three items I wanted
13 to raise with you, unless there is something else that
14 anyone else has to discuss.

15 First, it's the status of the Rule 317
16 Request and section 39 of the *Canada Evidence Act*;
17 secondly, whether or not there are going to be any motions
18 -- and this is specific to T-347. And I also wanted to
19 quickly raise at the end some trial dates.

20 We had discussed at the end of the last CMC
21 whether or not there could be some availability in July,
22 and I'm mindful of what Mr. Choudhry advised, so I've got
23 some early July dates, if that works for people.

24 So we'll discuss that at the end.

25 So the first item then, on the 317 Request,
26 this is only with respect to T-306 and T-347.

27 I have read the correspondence. Thanks for
28 everyone who sent in very fulsome communications on that.

1 I'm not going to direct any kind of review
2 at this juncture, but would like to hear from Mr. Provart
3 and Mr. Anderson about some kind of timelines in here. We
4 shouldn't be leaving it too open ended.

5 And I also note in CFN's correspondence
6 about their alternate proposal about waiting until after
7 April 4th.

8 So how does this all work to keep all the
9 proceeding on track and -- so who would like to speak to
10 that?

11 Well, maybe Mr. Provart, if you can give us
12 maybe an update and let us know how -- where things are?

13 MR. PROVART: Indeed. Good morning, and
14 thank you very much, Prothonotary Milczynski.

15 So you do -- you did receive our
16 correspondence and our friends have received our
17 correspondence sort of outlining the process which, I think
18 it should be clear at this point, is -- it's not some sort
19 of a rubber stamp or a mere formality. It actually is a
20 process of engaging the Clerk of the Privy Council, who is
21 the most senior civil servant in the country.

22 And the timeline that our client has advised
23 us of is 30 days for review of the documents in question,
24 and that's what's anticipated. If it's possible to do it
25 earlier, it will be done, but there is actually a sequence
26 of -- there are other requests out there as well at the
27 moment. This is not the only request in the world, as much
28 as we always think the world turns around our cases, but

1 that there are other requests out there and there are --
2 the Clerk, of course, is a very busy person, and 30 days is
3 the timeline at the moment.

4 PROTHONOTARY MILCZYNSKI: Thirty (30) days
5 from when? When did that 30 days commence to run?

6 MR. PROVART: Thirty (30) days from today.

7 PROTHONOTARY MILCZYNSKI: From today?

8 MR. PROVART: Yes.

9 PROTHONOTARY MILCZYNSKI: Mr. Boissonneau,
10 you're popping up on my screen here. Is there something
11 that ---

12 MR. BOISSONNEAU-LEHNER: Well, I'm a little
13 uncomfortable with that timeline, Prothonotary, as the
14 rules anticipated that the 317 Request was to be responded
15 to within 20 days.

16 My friend, the Attorney General's office has
17 known about our request since the -- well, yeah, it's been
18 five weeks since our application requested this. I
19 understand that the Clerk of the Privy Council is a busy
20 person, but the -- section 39 of the *Evidence Act* does not
21 limit the certificate to being issued by the Clerk of the
22 Privy Council.

23 Surely, Minister Mendicino, who authored
24 these documents -- or any other Minister of the Crown --
25 can make themselves available, if not within the 20-day
26 timeline, as anticipated by the rules, or within -- by
27 March 15th, as set out in your initial direction.

28 I just don't -- I see here that 30 days is

1 to -- and I appreciate that my friend and the Office of the
2 Privy Council will attempt to do this earlier, but I think
3 this has been delayed too long, and we would like to know
4 what record we're dealing with so that we can have a
5 meaningful judicial review and be able to evaluate whether
6 there is enough to review for the Court to perform its
7 function.

8 PROTHONOTARY MILCZYNSKI: Mr. Choudhry?

9 MR. CHOUDHRY: Our position is that if the
10 Attorney General of Canada can't comply with the 20-day
11 timeline set out in the rules in your direction, it should
12 have brought a motion pursuant to Rule 8 seeking for an
13 extension, and it hasn't.

14 And so at the very least, we think that it
15 needs to bring a motion, and then we will -- and if it
16 proposes in that motion a 30-day timeline from today, we
17 will oppose it for the reasons that my friend has stated.

18 We issued our Notice of Application on
19 February 22nd, and included in it a Rule 13 317 Request
20 precisely because we knew this would take time, and it's
21 been more than 30 days since then. And so to take another
22 30 days, again, without seeking -- certainly, bringing a
23 motion seeking the Court's permission to depart from a
24 timeline set in the rules, I think is inappropriate.

25 PROTHONOTARY MILCZYNSKI: Well, I think
26 motions are great, but that's -- the purpose of case
27 management calls such as this one is to deal with some of
28 these procedural issues without the need for a motion.

1 So I'd like to -- motions sometimes take up
2 more time than they're worth, frankly, sometimes -- and so
3 if we're talking about extensions of time or the time the
4 Respondent needs to complete the process and deal with the
5 section 39 certificate, as well as the Rule 307 affidavits
6 that are also, I'm assuming, coming up the pipeline at --
7 on April 4th, they're due -- so I think -- let's -- I would
8 like to keep this sort of a -- be as practical as possible
9 with respect to this.

10 Mr. Provart, I mean, 30 days does -- from
11 today -- does seem like a fairly long period of time. As I
12 said, I'm not unsympathetic to the complexity of the
13 process and the other time constraints on the Clerk, but
14 would it assist -- I know sometimes it might assist if the
15 Court is requesting updates or would like something sooner,
16 if that would assist. And if you're going to be delivering
17 affidavits on April 4th, is that maybe a date to shoot for
18 for at least some kind of update, if not perhaps some more
19 substantive response to the request itself?

20 MR. PROVART: Prothonotary, I think we're
21 happy to provide an update on April 4th, and I can, of
22 course, convey to my client -- you know, I think we're all
23 interested in -- sorry -- I think we're all -- anyway,
24 pardon me, we're all interested in, you know, in moving
25 things along in a timely manner, and in getting things out
26 to our friends as quickly as we can.

27 The problem, as I've said, is that there is
28 a -- it is a process, and it's not an insignificant

1 process.

2 So but we're happy. I think that's a good
3 approach. It makes sense to me to provide an update,
4 seeing as we're having the affidavits coming up as well.

5 PROTHONOTARY MILCZYNSKI: Does anyone have a
6 real aversion to my suggestion?

7 MR. MILLER: No, but -- this is Brendan
8 Miller. I just wanted to add -- and first of all, sorry
9 for just yelling, "Hey". I have a toddler here and she
10 started hopping into something.

11 But the -- and we have advised my friends of
12 this, and I just wanted the Court to be aware -- first, our
13 sort of position is again that there's been enough time,
14 and our response -- we're not planning to bring a motion,
15 et cetera, but the Clerk of the Privy Council and the
16 Minister all have the ability at the political level to
17 waive any section 39 right or privilege. Of course, the
18 Attorney General doesn't itself, so we have drafted
19 correspondence to the Prime Minister on notice to the
20 leaders of the other parties of the House asking for a
21 waiver and explaining why.

22 We're sending that on Monday. Whether or
23 not they waive or not is inconsequential. We're intending
24 to proceed on the timelines already set.

25 I don't think -- there's nothing in -- I
26 know the Attorney General has put in their correspondence
27 that, you know, this is being engaged in, but the
28 certificate and the letter, both directly from the Privy

1 Council and their lawyers say nothing about that at all.

2 It simply says that these are objected to.

3 So in any event, we're happy to proceed with
4 the hearing in July. We're happy to proceed with the
5 filing deadlines, whether or not we get the records. We
6 don't want to waste time with that.

7 So we would like the records. I think it's
8 in the interest of justice that the records be produced. I
9 think it's in the interest of Canadians that the records be
10 produced in the circumstances. But if they choose not to
11 do that, that's their prerogative, and there's nothing we
12 can do about that, because section 39, unlike other
13 Commonwealth countries, is almost a complete prohibition in
14 their discretion.

15 So in any event, that's what we would like
16 to do on our file.

17 PROTHONOTARY MILCZYNSKI: And you're sending
18 this letter out on Monday?

19 MR. MILLER: On Monday, yeah. We gave the
20 Attorney General some time after we got the certificate and
21 everything, and we're getting the same delays. I frankly
22 don't understand it, because there's actually not that much
23 material to review, based on what is in the certificate, so
24 that's our position.

25 MS. KOHLMAN: I would like to speak to that,
26 if I could?

27 PROTHONOTARY MILCZYNSKI: Yes?

28 MS. KOHLMAN: Firstly, there is no

1 certificate. What we have is a letter from the Council to
2 the Clerk setting out what needs to be reviewed by the
3 Clerk.

4 And the concept of waiver doesn't apply.
5 *Babcock* (phonetic) makes that clear. It's a public
6 interest immunity, not a privilege to be waived.

7 The Clerk's role, under section 39, is
8 distinct from her other roles where she is accountable to
9 the Prime Minister.

10 So you know, Mr. Miller is free to
11 communicate with the Prime Minister as he wishes, but in
12 this situation, the Clerk has already been engaged in the
13 statutory process under section 39, and it will not be used
14 to thwart public inquiry or give some sort of tactical
15 advantage. Cabinet confidence is not some trump card that
16 the Crown plays when it wishes. It's an exclusionary rule,
17 and it's used even where it's to the Crown's disadvantage.

18 So we really need to let the process play
19 out and give the Clerk the time to reasonably consider
20 whether there is a greater public interest in disclosing
21 these records than there is in holding the cabinet
22 confidence.

23 PROTHONOTARY MILCZYNSKI: Thank you, Ms.
24 Kohlman.

25 I think this discussion is a little bit
26 premature for today.

27 Mr. Miller, you're going to send out your
28 letter on Monday?

1 MR. MILLER: Yeah.

2 PROTHONOTARY MILCZYNSKI: Everyone will have
3 a chance to review it, and then we can discuss it if we
4 need to on April 11th.

5 So for that -- for this discussion then I'd
6 like to leave it then for T-306 and 347, that there will be
7 a further update provided by Mr. Provart by April 4th.

8 I would hope that there might be some
9 encouraging news in that update, and we'll have to re-
10 evaluate on April 11th what the best way is to proceed if
11 the certificate hasn't been issued by then.

12 On the next item then, Mr. Choudhry, you've
13 indicated in your correspondence and you've provided your
14 proposed amended Notice of Application the Respondent is
15 posing. So are we talking about a motion here?

16 MR. CHOUDHRY: Well, we can certainly bring
17 one, if that's necessary. I took to heart what you just
18 said in response to my suggestion that Canada bring a
19 motion that we should try to resolve these things in CMC
20 and I was hoping we could do the same here. And so --
21 but, if need be, we'll bring the motion. And I'll
22 just clarify why it is we're seeking this -- we've
23 amended to seek this additional record.

24 Our view is that the material that was
25 before Cabinet would issue the revocation proclamation
26 is part of the same course of conduct because it was
27 done so -- because that decision to revoke the
28 emergency proclamation happened in a matter of days

1 after the emergency proclamation was issued. And, in
2 fact, the emergency proclamation was before the senate
3 when the Prime Minister had his press conference
4 announcing that the government was pulling it.

5 So we think the relevance in this --
6 it's -- although it's legally -- arguably, it's
7 separate in this very unique circumstance, it's one
8 and the same. And so we will -- that's the argument
9 we'll bring.

10 We can certainly file motion materials
11 if you wish, but -- to seek to amend our notice, but
12 that's the basis upon which we're proceeding. So
13 we're in your hands.

14 PROTHONOTARY MILCZYNSKI: Well, I'm sure
15 you've reviewed the letter from the Attorney General
16 of Canada that you could maybe address quick. This is
17 not the motion. We're not arguing the merits.

18 But in an effort to resolve this is that
19 the decision to revoke is not the decision under
20 review, and the -- any material related to the
21 decision to revoke was not before the decision maker
22 when proclaiming the initial proclamation. So I guess
23 I'm having a little difficulty understanding why that
24 would need to come in at this point.

25 MR. CHOUDHRY: And you know,
26 Prothonotary, our position is that in this unique
27 circumstance a decision of revoke was really part of
28 the same process, and Cabinet was still actively

1 seized of the matter. And so to artificially
2 segregate the decision to revoke from the decision to
3 issue the proclamation, in this particular context,
4 isn't factually correct as a substantive matter.
5 Although, as a formal matter, they might be distinct.
6 And so that's why we're seeking that -- we're seeking
7 that record as well.

8 PROTHONOTARY MILCZYNSKI: I know, Mr.
9 Provar, in your correspondence you say that this may
10 have an impact on the timing of things. I would ask
11 that it not and that the initial and original 317
12 Requests and the Clerk's work continue, and whatever
13 certificates are issued be dealt with on the basis of
14 the original requests, pending any disposition on this
15 motion.

16 So if you're looking at -- I'd like to
17 see your motion material first, if it is -- if it does
18 have to go that way, Mr. Choudhry. So ---

19 MR. CHOUDHRY: We can -- so we can file
20 it by next week. How quickly would you like it?

21 PROTHONOTARY MILCZYNSKI: Whenever you
22 want to file it, you can go ahead and file it, and
23 I'll have a look at it ---

24 MR. CHOUDHRY: Okay.

25 PROTHONOTARY MILCZYNSKI: --- and
26 determine what to do with it at that point.

27 MR. CHOUDHRY: Understood.

28 PROTHONOTARY MILCZYNSKI: Any other

1 comments on the proposed CCF Motion? I guess there's
2 a possible other motion raised in your material, Mr.
3 Choudhry, and that is the disclosure on counsel's-
4 eyes-only basis. Is that something we need to deal
5 with right now?

6 MR. CHOUDHRY: I don't think so. I
7 think -- I think we have to get -- I think it's a
8 motion we'd bring in response to whatever
9 certificate's been issued ---

10 PROTHONOTARY MILCZYNSKI: Right.

11 MR. CHOUDHRY: --- and the certificate
12 has not been issued. And when it's issued, then, at
13 that point, we'll be able to bring a motion to have
14 that order sought. And so I think we'll leave things
15 for the time being.

16 PROTHONOTARY MILCZYNSKI: Okay.

17 Before we move on to trial dates, is
18 there anything else anyone wants to raise about the
19 first two items, or anything else?

20 MR. BOISSONEAU-LEHNER: Yeah,
21 Prothonotary, I'm wondering if, instead of this six
22 being an update -- my concern is -- and it's not my
23 friend's fault. I know that they're dealing with the
24 challenges of the Clerk of the Privy Council's
25 availability.

26 It's just that in our last case
27 conference, when they were asked whether they would be
28 able to meet this 317 deadline, they said they

1 anticipated they would.

2 I'm worried that we're going to be
3 having a series of case conferences until the end of
4 time unless ---

5 PROTHONOTARY MILCZYNSKI: No, I hear
6 what you're saying, and I think for April 4th, there's
7 strong encouragement from the Court that this not just
8 be, "We're working -- an update and we're working on
9 it."

10 MR. BOISSONEAU-LEHNER: Right, okay.

11 PROTHONOTARY MILCZYNSKI: So there's
12 needs to be some kind of timeframe around this. and 30
13 days -- I know you've said 30 days, Mr. Provart, but
14 that does seem quite long. So let's see what can be
15 done.

16 MR. PROVART: We can put 30 -- I mean I
17 think it -- it really -- it's important to understand that
18 this is an important review process. It's not a rubber
19 stamp. And I think there's been some understanding or
20 characterization of it in that respect.

21 But once we even know that the privilege is
22 actually engaged, there is the balancing exercise, which is
23 the same balancing -- you know, it's -- so it's not a -- my
24 colleague just referenced this as well, that in some cases
25 it can be advantageous, some cases disadvantageous to the
26 AGC.

27 This is not a tactical manoeuvre of any
28 sort, and it's a process which takes time to duly consider.

1 So we're -- I can -- I'm going to convey the Court's
2 message, and I just -- I think we need to be careful for my
3 friend to sort of lob accusations about, you know, dragging
4 heels when I think there's very little appreciation,
5 perhaps, for the work that goes on behind the scenes here.
6 That's all I would say -- and the work that is going on
7 upstairs here, so.

8 PROTHONOTARY MILCZYNSKI: Okay.

9 MR. MILLER: Madam Prothonotary.

10 PROTHONOTARY MILCZYNSKI: Yes.

11 MR. MILLER: Oh, sorry. It's Brendan
12 Miller. Maybe I can assist.

13 Would the Attorney General be in a
14 position to advise the -- I don't know what my
15 friend's positions are. I think the primary document
16 that's at issue here is the memorandum from the
17 Minister to the GG because that would end up being the
18 reasons for the Valentine's Day declaration, in any
19 event.

20 Could you, by next week, or the fourth -
21 - would you be able to, at least on our file, advise
22 the Clerk of the Privy Council that we just would like
23 that reviewed, and at least disclosed, as soon as
24 possible? That, I think, is the most important and
25 prudent document.

26 Given that's the case, and you know
27 there's a bundle of documents, if we narrow it down,
28 and we're speaking about the timing, I don't see how

1 that couldn't be reviewed toute suite. Is that
2 something that you could consider?

3 MR. GIBBS: Perhaps, if I can answer
4 that. It's Andrew Gibbs. I'm replacing Mr. Anderson,
5 who is unavailable today.

6 I think another point that is critical
7 for everyone to appreciate is that these requests are
8 handled in a queue. And so with all of the litigation
9 that faces the Government of Canada across the
10 country, each one of these requests goes into a queue.

11 And so it's not possible to take one of
12 the documents out of a package and put to the Clerk
13 for a quick review. That means that all of the other
14 files where we attended case conferences and everyone
15 says, "Yes, but it's only a handful of documents;
16 can't we go first?" -- some files there are many
17 documents that need to be reviewed, and each one
18 requires the personal attention of the Clerk who has
19 to review the pleadings, understand the file, review
20 the materials completely, and then make that decision
21 weighing the interests.

22 So it's not possible, unfortunately, to
23 jump the queue. It would be great if we could get
24 that. And, I believe us, Mr. Provart, and Ms.
25 Kohlman, and myself would like nothing more than to
26 just get on with this, but it is a serious process
27 that has to take place, and each litigation and each
28 request for a section 39 Certificate goes into the

1 queue, and there are many.

2 PROTHONOTARY MILCZYNSKI: Well, thank
3 you for that clarification, Mr. Gibbs.

4 MS. KOHLMAN: I would also, if I could -
5 --

6 PROTHONOTARY MILCZYNSKI: Sorry?

7 MS. KOHLMAN: If I could, I would also
8 just add that the Clerk reviews these documents as a
9 package. She doesn't just take one out and make a
10 decision on it without reviewing all of the documents
11 and understanding the whole of the course of conduct.
12 So it would be impossible to simply say, "Well, we'll
13 just do this one document as a one off."

14 PROTHONOTARY MILCZYNSKI: We do have the
15 April 4th date, and we do have another case management
16 conference on April 11th. Both those dates are not
17 too far off.

18 So Mr. Choudhry, you had your hand up?

19 MR. CHOUDHRY: Yeah, there's one
20 additional issue, since we're on this point, but I
21 wanted to make sure you're finished addressing these
22 issues of scheduling. It's about the scope of the
23 record that the government proposes to disclose; it
24 doesn't include deliberations of Cabinet, and we're
25 not sure why it doesn't.

26 PROTHONOTARY MILCZYNSKI: I think there
27 was some back and forth between yourself and them.
28 There's was correspondence saying that that package

1 includes those sorts of material. So I think we just
2 have to wait and see what is listed.

3 So if there's nothing else on the 317
4 and the motion of T-347, can we talk about trial
5 dates, then?

6 Right now we have June 28th for three
7 days, but would six, seven -- July 6, 7, 8 provide --
8 I know I raised 12, 13, 14. And I think for your
9 colleague, Mr. Choudhry, that might be a little late,
10 but if 12, 13, 14 doesn't work, does 6, 7, 8 work for
11 everyone?

12 Let's start with -- who's on for 306,
13 Mr. Boissoneau?

14 MR. BOISSONEAU-LEHNER: Yes, those dates
15 work for me, personally. I'm just checking with co-
16 counsel.

17 PROTHONOTARY MILCZYNSKI: Mr. Cowling.
18 Well, if everyone needs to check with someone else,
19 let me know. But if we can discuss these on ---

20 MR. BOISSONEAU-LEHNER: Yeah.

21 PROTHONOTARY MILCZYNSKI: How about 6,
22 7, 8?

23 MR. BOISSONEAU-LEHNER: Sorry, I have a
24 confirmation that those dates work with Mr. Cowling as
25 well.

26 PROTHONOTARY MILCZYNSKI: And Mr.
27 Gourlay? Are you on -- you're on for the CCLA here.

28 MR. GOURLAY: Yes, I believe they are

1 fine with us. I'm just -- I'm just checking with my
2 co-counsel. But they -- it looks like we're good to
3 go.

4 PROTHONOTARY MILCZYNSKI: Mr. Miller?

5 MR. MILLER: Good to go for those dates,
6 Madam Prothonotary. And any dates in July or June, as
7 I've said prior, that this Court would like to set,
8 feel free to set them. We'll move our schedules
9 around.

10 PROTHONOTARY MILCZYNSKI: Mr. Choudhry?

11 MR. CHOUDHRY: I think it's really for
12 my colleague, Ms. Shanmuganathan, to let us know
13 whether those dates work for her.

14 PROTHONOTARY MILCZYNSKI: Is she on the
15 call?

16 MR. CHOUDHRY: She is.

17 MS. SHANMUGANATHAN: I'm here, yes.
18 Good morning. My due date is at the end of July, so
19 let's just hope the baby stays in, and I think we
20 should be okay.

21 PROTHONOTARY MILCZYNSKI: All right.
22 What about the 16th -- that 12, 13, 14 is a little
23 cutting it close.

24 MS. SHANMUGANATHAN: Yeah, I think
25 that's cutting it a bit close. I think we have a
26 better chance of the baby staying in the 6th, 7th, and
27 8th.

28 PROTHONOTARY MILCZYNSKI: And Mr.

1 Provart, Ms. Kohlman, Mr. Gibbs, 6, 7, 8?

2 MR. PROVART: I think we can circle back to
3 our team with those dates, Prothonotary, and get back to
4 the Court.

5 PROTHONOTARY MILCZYNSKI: Okay, well,
6 let's at least provisionally look at, then, July 6, 7,
7 8 instead of June 28th for the three days.

8 And Mr. Choudhry, when I see your
9 material, I'll have a look at it, on your motion to
10 amend the Notice of Application, if you're going to
11 file it next week.

12 MR. CHOUDHRY: Yes, we will.

13 PROTHONOTARY MILCZYNSKI: Okay.

14 MR. PROVART: Prothonotary?

15 PROTHONOTARY MILCZYNSKI: Yes.

16 MR. PROVART: I had one further -- so while
17 we're talking about amendments, we know there is another
18 potential amendment out there, and I don't know if our
19 friends from the CFN file wanted to speak to their proposed
20 amendments and what they intend to do.

21 MR. BOISSONEAU-LEHNER: Yes, so we were
22 directed at the last case conference to confer with
23 the Office of the Attorney General. They've advised
24 us that they're not consenting to the amendments, so
25 subject to what the Court has to say, it looks like
26 we'll have to be bringing our own motion as well to --
27 for the ---

28 PROTHONOTARY MILCZYNSKI: Can you remind

1 me what your amendments are?

2 MR. BOISSONEAU-LEHNER: Our amendments
3 are simply to bring it into alignment with our Notice
4 of Constitutional Question, and to delete our request
5 for a stay given that that's being dealt with.

6 So I know that the Court routinely
7 encourages and provides relief when the amendments
8 sought are simply to bring the issues to be dealt with
9 at the hearing, so it's just we've added a few
10 questions -- a few sections of the Charter that we
11 would like to raise.

12 But that's pretty much the extent of our
13 amendments, and they are being -- these same Charter
14 issues are set out in our Notice of Constitutional
15 Question, and my friend's -- the other Applicant's
16 materials as well. So it will be dealt with at the
17 hearing one way or the other. We just wanted to have
18 the opportunity to speak to those Charter grounds as
19 well at the hearing.

20 PROTHONOTARY MILCZYNSKI: Mr. Provart,
21 what's the problem here?

22 MR. PROVART: Well, I think the problem is
23 that we're talking about just adding a few grounds of the
24 Charter sounds all very straightforward, but of course it
25 has significant consequences in terms of the very scope and
26 ambit of the case, and how we respond, and all the rest of
27 it. So we need to have a motion and know what we're
28 dealing with here.

1 PROTHONOTARY MILCZYNSKI: Okay. And
2 when could this -- the motion record in that one be
3 delivered?

4 MR. BOISSONEAU-LEHNER: I intend to
5 deliver it on Monday.

6 PROTHONOTARY MILCZYNSKI: I think I'll
7 have a look at that as well.

8 MR. BOISSONEAU-LEHNER: And I was
9 planning on bringing it in writing, if that ---

10 PROTHONOTARY MILCZYNSKI: Well, you can
11 file it and bring it under Rule 369, if you want to,
12 as a start. Mr. Provart will have a look at it; I'll
13 have a look at it; and then we'll determine whether it
14 can proceed, and how, and when it can go ahead.

15 MR. BOISSONEAU-LEHNER: Thank you.

16 PROTHONOTARY MILCZYNSKI: Okay. So two
17 motions will be filed next week. We've talked about
18 the dates for 317. We've discussed the trial dates.
19 Is there anything else? No?

20 All right, well, thank you very much,
21 and I guess the next date we'll get together, at least
22 for now, is April 11th. So we can adjourn. Thank
23 you.

24 THE REGISTRAR: This special sitting with
25 Federal Court is now concluded.

26 --- Upon adjourning

27

LEGAL DICTA-TYPIST'S CERTIFICATE

I, Karen Noganosh, Court Transcriber, hereby certify
that I have transcribed the foregoing and it is a true
and accurate transcript of the digital audio recorded
in this matter.



Karen Noganosh

April 4, 2022

Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF KRISTEN NAGLE

I, Kristen Nagle, Registered Nurse and director and member of Canadian Frontline Nurses, of the City of London, Ontario SWEAR THAT:

1. I am an Applicant in these proceedings and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where same are stated to be based upon information or belief, and where so stated, I verily believe the same to be true.
2. The co-Applicant, Canadian Frontline Nurses, is a registered not-for-profit corporation.
3. Canadian Frontline Nurses is a proud advocate of medical freedom. Its mission is to unite nurses across Canada, educate the public and ensure that Canadian healthcare reflects the highest ethical standards.
4. Attached and marked as Exhibit “A” is a copy of the Certificate of Incorporation for Canadian Frontline Nurses.

Canadian Frontline Nurses and My Participation in the Freedom Convoy 2022 protests

5. I, together with other members of Canadian Frontline Nurses, arrived in Ottawa on January 28, 2022 to peacefully participate in the Freedom Convoy 2022 protests. We continued to participate in the Freedom Convoy 2022 protest in Ottawa until February 19, 2022.
6. Canadian Frontline Nurses is recognized as a participating group in the Freedom Convoy 2022 movement. Canadian Frontline Nurses was listed as a participating group on the main page of the Freedom Convoy 2022 website, which was accessible at www.freedomconvoycanada.com before the website was taken down. A printout of main Freedom Convoy 2022 website page, as it existed on February 22, 2022, is attached hereto and marked as Exhibit “B”.
7. On February 21, 2022, my Member of Parliament, Arielle Kayabaga of the Liberal Party of Canada, identified me as one of the key people involved in the Freedom Convoy 2022 protest in Ottawa.
8. My and Canadian Frontline Nurses’ participation in the Freedom Convoy 2022 protest was motivated by our desire to express solidarity with and provide support to the truckers who had travelled to Ottawa. We wished to join the truckers and other participants in the Freedom Convoy 2022 protest in Ottawa to engage in the peaceful expression of our opposition to unreasonable COVID-19 mandates and restrictions imposed by various levels of government.

9. It was my hope and the hope of Canadian Frontline Nurses that our assembly with likeminded individuals at the Freedom Convoy 2022 protest in Ottawa and our engagement in peaceful expressions of dissent would bring more awareness to, and engender more dialogue about, government-imposed COVID-19 mandates and restrictions.
10. The participants in the Freedom Convoy 2022 protest in Ottawa, including Canadian Frontline Nurses and me, do not believe that many of the COVID-19 mandates and restrictions that are in place are warranted. We believe that many of these mandates and restrictions are not supported by the science and that they do more harm than good.
11. We further hoped that our peaceful expressions of dissent and the increased public awareness of the issues that the Freedom Convoy 2022 movement was designed to spark would ultimately lead politicians in favour of the mandates and restrictions to reconsider their position.
12. Canadian Frontline Nurses and I wished to bring about the revocation of COVID-19 mandates and restrictions through our peaceful expression of dissent. I unequivocally do not support violence. Neither does Canadian Frontline Nurses. We denounce violence and do not view violence as a legitimate means of expression or as a means of achieving one's political ends.
13. I have not witnessed nor am I aware of any violence committed by the protestors in the Freedom Convoy 2022 assembly in Ottawa. I did however witness acts of serious violence committed by the police on February 18, 2022 and February 19, 2022 against the protestors

who had assembled in Ottawa. I was also assaulted by a woman who threw eggs at me and my family from the sixth story of an apartment building on February 20, 2022.

14. From January 29, 2022 to February 19, 2022, I assembled in the area where the Freedom Convoy 2022 protest was taking place in Ottawa every day except February 1, 2022. During this January 29, 2022 to February 19, 2022 period neither I nor anyone else from Canadian Frontline Nurses impeded the movement of any person or goods.
15. Neither I nor Canadian Frontline Nurses own or operate a truck. Nor did we park a truck in Ottawa.
16. During the Freedom Convoy 2022 protests in Ottawa, I made several speeches to voice my opposition to COVID-19 mandates and restrictions and in favour of freedom. A video of one of the speeches I made can be accessed from the following URL: <https://www.facebook.com/CanadianFrontlineNurses/videos/306993618075698>. A hyperlink to a downloadable version of this video is attached hereto and marked as Exhibit “C”.
17. To bring awareness of the Freedom Convoy 2022 protests in Ottawa participants’ peaceful expression of dissent, I routinely posted videos and made livestreams of the Freedom Convoy 2022 protest on my social media profiles, particularly Instagram.
18. My Instagram handle is kristen_nagle. As of the time of swearing this affidavit, I have over 40,000 followers. Many of the videos I have shared through my Instagram profile have been viewed tens of thousands of times.

19. Throughout my and Canadian Frontline Nurses' participation in the Freedom Convoy Protest in Ottawa, we solicited donations and distributed funds to truckers who were participating in the protest in Ottawa. We also provided material support in forms other than funds to these truckers including access to our hotel room at the Sheraton so that they could shower, rest, or drop off clothes to be laundered.
20. Some of the support we provided to truckers in Ottawa is documented in videos that are on my Instagram profile. The following is a list of videos which show myself on behalf of Canadian Frontline Nurses providing support to truckers participating in the peaceful Freedom Convoy 2022 protests in Ottawa:
- a. On January 31, 2022, I made a livestream video that is 10 minutes and 14 seconds in length. I spoke with a trucker who was sitting in his truck. Starting at the 4:17 mark of this video, I provided the trucker with my contact information and advised him that we would be happy to let him use our shower at our hotel room. Starting at the 9:31 mark of this video, I encouraged my viewers to help by providing truckers access to rooms and showers. This video is accessible on my Instagram at the following URL:
https://www.instagram.com/tv/CZYD4Tegw9b/?utm_medium=copy_link.
 - b. On February 8, 2022, I made a number of livestream videos showing me distributing funds that were given to Canadian Frontline Nurses to distribute to the truckers:
 - i. One video made on February 8, 2022 is 14 minutes and 17 seconds in length. In the first portion of this video, I spoke with a female trucker. At

the 12:39 mark of the video, I met with an individual named Austin. I provided him with funds that were given to Canadian Frontline Nurses to distribute to the truckers. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZudIfplYMz/?utm_medium=copy_link.

- ii. One video made on February 8, 2022 is 14 minutes and 17 seconds in length. In the Instagram caption for this video, I stated “Spreading love today! Ottawa Feb 8th Can donate to Canadian Frontline Nurses Cfln@protonmail.com To help keep this going! Thank you everyone so much!” The video consists of me speaking to fellow peaceful protestors and walking around the protest site distributing funds to truckers participating in the Freedom Convoy 2022 protest in Ottawa that were donated to Canadian Frontline Nurses for this purpose. This video is accessible on my Instagram profile at the following URL:
- iii. One video made on February 8, 2022, is 7 minutes and 56 seconds in length. The video consists of me speaking to fellow protestors and walking around the protest site distributing funds to truckers participating in the Freedom Convoy 2022 protest in Ottawa that were donated to Canadian Frontline Nurses for this purpose. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZugz60lFJy/?utm_medium=copy_link.

iv. One video made on February 8, 2022 is 44 minutes and 39 seconds in length. In this video, I speak with fellow protestors and document the protest site, while distributing funds to trucker in the Freedom Convoy 2022 protest in Ottawa that were donated to Canadian Frontline Nurses for this purpose. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZu8AZVq1Rp/?utm_medium=copy_link

c. On February 10, 2022, I made a livestream video that is 9 minutes and 17 seconds in length to update and provide transparency to those who had entrusted Canadian Frontline Nurses with their donations to distribute to truckers. I shared screen time in my livestream with Michelle Kloet who was also fundraising in support for the truckers and arranging for their access to shower facilities at the Sheraton. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZzZRDsKBV8/?utm_medium=copy_link

d. On February 10, 2022, I made another livestream video that was 8 minutes and 41 seconds in length. In this video, I spoke with Brian Jordan who explained that the funds helped towards the purchase of a generator and to help fix the vehicle door of a participant in the Freedom Convoy 2022 protest in Ottawa. I also explained starting at the 7:10 mark of this video that the funds were applied to helping finance Canadian Frontline Nurses' stay at the Sheraton which enabled me to provide updates regarding the Freedom Convoy 2022 protest and offer showers, a place for rest, and a place to collect laundry for the truckers. I explained that we were also using our room that day to help nurse a trucker who had fallen ill to

health. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZ0cyk0qO-b/?utm_medium=copy_link

- e. On February 14, 2022, I made a livestream video that was 3 minutes and 59 seconds in length. In this video I shared stories regarding how the funds that were being donated to Canadian Frontline Nurses were being used to support the truckers. I explained that we were using our room at the Sheraton to offer food, hot coffee, and showers to the truckers. I also advised my viewers that we were going to spend Valentine's Day distributing donations to participants in the Freedom Convoy 2022 protests in Ottawa. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZ9hA16KH5m/?utm_medium=copy_link

- f. On February 14, 2022, I made another livestream video that is 17 minutes and 23 seconds in length. The video featured a trucker who expressed he was participating in the Freedom Convoy 2022 protests in Ottawa because he cannot work because of the federal vaccine mandate. Starting at the 11:45 mark of the video, the trucker explained the purpose of the donations, and how the donated funds are distributed. A copy of this video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZ9pjJ6KeXM/?utm_medium=copy_link

- g. On February 14, 2022, I made another livestream video that is 8 minutes and 14 seconds in length. The video featured my conversation with Shawn Jason Laponte, the founder of Druthers, who advised that he was intending to distribute funds to Truckers who were in dire need of funds, but that he discovered that his account with the Bank of Montreal was frozen. In this video, I also speak with

Shawn Jason Laponte and Shaun Zimmer, another participant in the Freedom Convoy 2022 protest in Ottawa, about strategies we could employ to continue to distribute donated funds to truckers. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZ-MwVsF5R6/?utm_medium=copy_link.

- h. On February 14, 2022, I made another livestream video that is 35 minutes and 34 seconds in length. The video shows me distributing funds to truckers. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CZ-E-FCIm1w/?utm_medium=copy_link

- i. On February 16, 2022, I made a livestream video that is 44 minutes and 54 seconds in length. This video shows me documenting the site of the Freedom Convoy 2022 protests. As I was walking through the protest site, I was distributing funds to truckers that were given to Canadian Frontline Nurses for this purpose, but I was careful not to show or mention this in my livestream in light of the *Emergencies Measures Regulations* that were enacted on February 15, 2022. This video is accessible on my Instagram profile at the following URL:

https://www.instagram.com/tv/CaDEp5KKeTi/?utm_medium=copy_link

21. A hyperlink to a downloadable version of the videos referenced in paragraph 20 above is attached hereto and marked as Exhibit “D”.

22. Other individuals present at the Freedom Convoy 2022 protest in Ottawa were also taking and sharing photographs and video on social media. On February 14, 2022, an individual named Caryma Sa’d (Twitter handle @CarymaRules) posted a video and photographs of

showing me providing funds to a Freedom Convoy 2022 Ground Coordinator. I provided funds to the Ground Coordinator in order to assist with the distribution of funds and the obtaining of supplies to support the truckers who were participating in the Freedom Convoy 2022 protest in Ottawa. A screenshot Ms. Sa'd's February 14, 2022 posts which feature the aforementioned video and photographs is attached hereto and marked as Exhibit "E."

23. I continued to accept and distribute funds to truckers and continued to provide them with access to the amenities available at our room at the Sheraton on and after February 15, 2022.

24. On February 16, 2022, I was temporarily unable to access my online banking with the Royal Bank of Canada. I initially feared that this was as a result of the *Emergency Economic Measures Order*, but I later learned that Royal Bank of Canada was experiencing a temporary outage with their online banking services.

25. On February 16, 2022, the Ottawa Police Service distributed a "Notice to Demonstration Participants." It stated in part: "[t]he people of Ottawa are being denied the lawful use, enjoyment and operation of their property and you are causing businesses to close. That is mischief under the Criminal Code." The notice further stated that the "Federal Emergencies Act allows for the regulation or prohibition of travel to, from or within any specified area. This means that anyone coming to Ottawa for the purpose of joining the ongoing demonstration is breaking the law." A photograph of the Notice to Demonstration Participants that was distributed by the Ottawa Police Service on February 16, 2022 is attached hereto and marked as Exhibit "F".

Canadian Frontline Nurses and Me are “designated persons” under the *Emergency Economic Measures Order*

26. I have been advised by several peaceful participants in the Freedom Convoy 2022 protests who did not operate or park a truck in Ottawa that they had their bank accounts frozen after the *Emergencies Act* was invoked.

27. Tom Marazzo is one of the individuals who advised me that his financial accounts had been frozen.

28. I have reviewed the *Emergency Economic Measures Order* and the *Emergency Measures Regulations*.

29. I understand from my review of section 4 of the *Emergency Measures Regulation* that a person must not travel to or within an area where an assembly that may reasonably be expected to lead to a breach of the peace is taking place nor bring a minor within 500 metres where such an assembly is taken place, unless the exemptions set out in subsection 4(3) apply.

30. I travelled to, and brought a minor to, the Freedom Convoy Protest 2022 assembly in Ottawa on and after February 15, 2022. None of the exemptions set out in subsection 4(3) of the *Emergency Measures Regulation* apply to me.

31. I understand that section 5 of the *Emergency Measures Regulation* prohibit individuals from directly or indirectly using, collecting, providing, making available, or inviting a

person to provide property to facilitate or participate in an assembly that may reasonably be expected to lead to a breach of the peace or to benefit a person who is facilitating or participating in such an assembly.

32. Canadian Frontline Nurses collected funds to facilitate its and my participation in the Freedom Convoy 2022 assembly in Ottawa after February 15, 2022.

33. Canadian Frontline Nurses and I also collected funds, provided funds, made funds available, and invited others to provide funds to truckers to facilitate their participation in the Freedom Convoy 2022 assembly in Ottawa on and after February 15, 2022.

34. I understand from my review of section 1 of the *Emergency Economic Measures Order* that a “designated person” means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by section 2 to 5 of the *Emergency Measures Regulations*. I further understand from my review of the balance of the *Emergency Economic Measures Order*, that this Order in effect prevents financial institutions from dealing in any property, including funds, or providing any financial or related services to a “designated person”.

35. I verily believe that I am a designated person under the *Emergency Economic Measures Order*. I verily believe Canadian Frontline Nurses is a designated person under the *Emergency Economic Measures Order*. I further verily believe that any individual who provided funds to me or Canadian Frontline Nurses on or after February 15, 2022 are designated persons.

36. Canadian Frontline Nurses has funds stored with financial institutions. Canadian Frontline Nurses needs access to funds stored at financial institutions to support its mission.

37. Canadian Frontline Nurses was also distributing donated funds to truckers who were participating in the peaceful assembly and expression of dissent in the Freedom Convoy 2022 Protest in Ottawa.

38. I, in my personal capacity, have money stored in financial institutions. I also have credit cards.

The Impact of the Invocation of the Emergencies Act and the Measures that passed in its wake on Canadian Frontline Nurses and Me.

39. Neither I nor any members of Canadian Frontline Nurses engaged in any criminal activity during our participation in Freedom Convoy 2022 protests in Ottawa. None of Canadian Frontline Nurses' members, including myself, charged with an offence under the *Emergency Measures Regulations* or the *Criminal Code*. However, the invocation *Emergencies Act* and the enactment of the *Emergency Measures Regulations* did leave me with the fear that I and other members of Canadian Frontline Nurses could be charged for our peaceful expression of dissent and financial support of others participating in the Freedom Convoy 2022 protests in Ottawa. This fear remains given many of the statements made by politicians and police that they will continue to investigate and charge people who have breached the provisions made pursuant to the *Emergencies Act*.

40. To my knowledge, neither my financial accounts nor the financial accounts of Canadian Frontline Nurses were frozen as a result of the Emergencies Measures Regulations. However, I was constantly in fear that my accounts and Canadian Frontline Nurses'

accounts could be frozen at any time. I do not believe this concern was irrational, in light of the federal government's messaging and the fact that I was aware that several fellow protestors' accounts were frozen for participating in the same activities as Canadian Frontline Nurses and I did.

41. After February 14, 2022, we were not able to distribute funds and support as openly as we had before, for fear that our accounts would be frozen or that we would be charged under the *Emergency Measures Regulations*.

42. The threat of our accounts being frozen caused me and Canadian Frontline Nurses to be more cautious in how we solicited and distributed support to truckers participating in the Freedom Convoy 2022 protests in Ottawa. After February 14, 2022, I was careful to no longer broadcast the donations we were making to truckers in my social media posts and live feeds. I verily believe that showing the distribution of funds in support of the truckers in our broadcasts were important to those who had donated to Canadian Frontline Nurses, as our donors who supported the objectives of the Freedom Convoy 2022 movement wanted to see that the funds they donated were being put to good use.

43. After February 14, 2022, I was advised by many Canadian Frontline Workers' supporters that they were hesitant to donate funds to Canadian Frontline Workers as they were concerned that their financial accounts would be frozen.

44. After February 14, 2022, the volume of donations to Canadian Frontline Nurses declined.

45. I observed that the number of participants in the Freedom Convoy 2022 protests in Ottawa dwindled after the *Emergencies Act* was invoked.
46. I verily believe as a result of conversations I had with other participants and supporters of the Freedom Convoy 2022 protest in Ottawa, that many were hesitant to continue to assemble and express their dissent after the *Emergencies Act* was invoked. These individuals expressed fear that their financial accounts could be frozen and that they could be prosecuted for supporting or participating in the Freedom Convoy 2022 protest in Ottawa.
47. Several parents advised me that they were concerned that their children could be taken away from them as a result of their support and participation in the Freedom Convoy 2022 protest in Ottawa.
48. Some truckers advised me that they were stopping their participation in the Freedom Convoy 2022 protest in Ottawa due to concerns that the insurance for their trucks would be cancelled as a result of the invocation of the *Emergencies Act*.
49. I am the mother of two minor children who I love very much. My children were present with me in Ottawa, and they had attended the Freedom Convoy 2022 assembly in Ottawa. However, on February 18, 2022 and February 19, 2022, I left my children at the hotel and did not bring them to the protest. I was aware that by bringing my children with me to the protest site in Ottawa I could be charged under the *Emergency Measures Regulations* which not only prohibits a person from participating in an assembly, but prohibited bringing a minor within 500 metres of an assembly that may reasonably be expected to lead to a breach

of the peace. While I did not believe that the assembly could be reasonably expected to lead to a breach of the peace (given that the protests I observed in Ottawa were peaceful) I was not confident that the authorities interpreting the *Emergency Measures Regulations* would not charge me, particularly in light of the rhetoric I had heard from various Ministers of the Federal Cabinet, the pamphlets that the Ottawa Police distributed on February 16, 2022, and notices that were posted at the Sheraton advising of the potential penalties that could be imposed for bringing children to the protest site.

50. I was concerned that by continuing to peacefully assemble and express my opinions, beliefs, and values in the Freedom Convoy 2022 protests in Ottawa after February 14, 2022, that not only my financial accounts were subject to be frozen, but that anyone who directly or indirectly supported me or Canadian Frontline Nurses could have their accounts frozen as well.

51. At present, I do not have a job that pays me an income and my husband is on an unpaid leave of absence from his work. Accordingly, my family and I need to rely on the funds I have stored at the bank and access to credit to support ourselves.

52. By February 19, 2022, I decided as a result of the chilling impact of the invocation of the *Emergencies Act* on the Freedom Convoy 2022 protest in Ottawa that Canadian Frontline Nurses and I would no longer participate in this protest.

53. On February 23, 2022, Canadian Frontline Nurses opened a separate account to segregate funds donated towards the legal fees associated with this Application from the funds Canadian Frontline Nurses receives for the community work it does in accordance with its

not-for-profit mission. Despite taking this step, several individuals advised me that they are reluctant to donate to our legal fundraising account out of fear that their own financial accounts could be frozen. Some of these concerns are reflected in the comments made in response to my February 23, 2022 post on the Canadian Frontline Nurses Facebook page. A printout of a screenshot of my February 23, 2022 post and the comments is attached hereto and marked as Exhibit "G".

Sworn before me remotely by Kristen Nagle, of London, Ontario before me in the City of Toronto, Ontario on March 4, 2022.



Alexander Boissonneau-Lehner
Commissioner for Taking Affidavits
(or as the case may be)


KRISTEN NAGLE

This is Exhibit "A" to the Affidavit of Kristen Nagle
sworn March 4, 2022

A handwritten signature in black ink, appearing to read 'ALEX', is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner



Certificate of Incorporation

Canada Not-for-profit Corporations Act

Certificat de constitution

*Loi canadienne sur les organisations à but non
lucratif*

Canadian Frontline Nurses

Corporate name / Dénomination de l'organisation

1290156-1

Corporation number / Numéro de
l'organisation

I HEREBY CERTIFY that the above-named corporation, the articles of incorporation of which are attached, is incorporated under the *Canada Not-for-profit Corporations Act*.

JE CERTIFIE que l'organisation susmentionnée, dont les statuts constitutifs sont joints, est constituée en vertu de la *Loi canadienne sur les organisations à but non lucratif*.

Raymond Edwards

Director / Directeur

2021-04-06

Date of Incorporation (YYYY-MM-DD)
Date de constitution (AAAA-MM-JJ)



Form 4001
Articles of Incorporation
Canada Not-for-profit Corporations
Act (NFP Act)

Formulaire 4001
Statuts constitutifs
Loi canadienne sur les
organisations à but non lucratif
(Loi BNL)

1	Corporate name Dénomination de l'organisation Canadian Frontline Nurses
2	The province or territory in Canada where the registered office is situated La province ou le territoire au Canada où est maintenu le siège ON
3	Minimum and maximum number of directors Nombres minimal et maximal d'administrateurs Min. 1 Max. 10
4	Statement of the purpose of the corporation Déclaration d'intention de l'organisation To unite nurses across Canada and bring the ethics back into healthcare.
5	Restrictions on the activities that the corporation may carry on, if any Limites imposées aux activités de l'organisation, le cas échéant None
6	The classes, or regional or other groups, of members that the corporation is authorized to establish Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir See attached schedule / Voir l'annexe ci-jointe
7	Statement regarding the distribution of property remaining on liquidation Déclaration relative à la répartition du reliquat des biens lors de la liquidation See attached schedule / Voir l'annexe ci-jointe
8	Additional provisions, if any Dispositions supplémentaires, le cas échéant None
9	Declaration: I hereby certify that I am an incorporator of the corporation. Déclaration : J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s)

Original Signed by - Original signé par

Kristen Marie Nagle

Kristen Marie Nagle

Kristen Marie Nagle

Sarah Anahid Choujounian

Sarah Anahid Choujounian

Sarah Anahid Choujounian

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fausse ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

Schedule / Annexe
Classes of Members / Catégories de membres

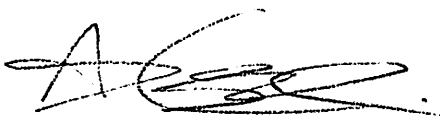
The corporation is authorized to establish Class A members and Class B members as follows:

- (1) The Class A members shall be entitled to receive notice of and to attend all meetings of the members of the Corporation and each Class A member shall have one (1) vote at each such meeting, except for meetings at which only members of another class are entitled to vote separately as a class.
- (2) Except as otherwise provided by the Canada Not-for-Profit Corporations Act, S.C. 2009, c.23 the Class B members shall not be entitled to receive notice of, attend or vote at meetings of the members of the Corporation.

Schedule / Annexe**Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation**

Any property remaining on liquidation of the Corporation, after discharge of liabilities, shall be distributed to one or more qualified donees within the meaning of subsection 248(1) of the Income Tax Act.

This is Exhibit "B" to the Affidavit of Kristen Nagle
sworn March 4, 2022

A handwritten signature in black ink, appearing to read 'A. Boissonneau-Lehner', is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner



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FOR
CHOICE**

**CANADIAN FRONTLINE
NURSES**

C.L.E.A.R.
 Common Law Education and Rights

**POLICE ON GUARD
FOR THEE**
 WILL YOU STAND?




FREEDOM CONVOY CANADA

LEAVE A COMMENT

Jan 28, 2022 | 1,955 Comments

BOTTOM / LAST COMMENT Leave a comment. Trolling gets your IP address banned. Once your first comment is approved, all your next comments will be automatically approved going forward. TO THE TROLLS, WE HAVE ACTUALLY BEEN GATHERING INFORMATION ON ALL OF YOU AND YOUR IP...

Chris on [LEAVE A COMMENT](#): "I've heard that Pat, George, Tamara and Chris have been arrested and cannot post bail due to accounts being frozen!..."

Feb 20, 07:27

Greg MacDonald on [LEAVE A COMMENT](#): "Words can't express the gratitude felt. I went to Ottawa and now constructively emailing our MPs, MPPs, the Senate. We..."

Feb 20, 06:57

Catherine Nina on [LEAVE A COMMENT](#): "You don't know how much you make me feel alive since you begin this Convoy ! I followed your press..."

Feb 20, 06:35

Randy Bugera on [LEAVE A COMMENT](#): "Thank you for standing up for our freedom"

Feb 20, 06:19

BOB TOMPSON on [LEAVE A COMMENT](#): "Jagmeet Singh told parliament today the Freedom Truckers website says the goal is to overthrow the government.. I say show..."

Feb 20, 00:48

Karen Wood on [LEAVE A COMMENT](#): "Thank you for drawing a line in the sand and standing up for our freedom. Praying for you all."

FREEDOM CONVOY SONGS

Feb 19, 21:05

Jeff on [LEAVE A COMMENT](#): "THE CITIZENS OF USA STANDS WITH YOU!!"

Feb 19, 20:56

Mark on [LEAVE A COMMENT](#): "As too why there isn't any (COVID) cases. That would be because it's as harmful as a gnat. But that..."

Feb 19, 20:56

Manon on [LEAVE A COMMENT](#): "Thanks to you the fringe is way thicker than "one" wants to believe. Thick enough that "one" has to resort..."

Feb 19, 19:17

Melissa on [LEAVE A COMMENT](#): "Thank you so much for fighting for us. There are no words that can explain my gratitude. You are hero's..."

Feb 19, 19:15

Tara on [LEAVE A COMMENT](#): "So many people and not one word on anyone having to go to the hospital with covid or even having..."

Feb 19, 17:16

Darryl Stinson on [LEAVE A COMMENT](#): "Thank u so much for fighting for us. Brings tears to my eyes all the pictures and smiles. Especially the..."

Feb 19, 16:19

Dan on [LEAVE A COMMENT](#): "Our truckers and citizens are peacefully demonstrating at Québec City Parliament Hill. Lot of love and joy and snow! Keep..."

Feb 19, 14:27

Candace on [LEAVE A COMMENT](#): "Just wondering who can I contact about coming up from Toronto. If there's a freedom bus. Please email me at..."

Feb 19, 14:20

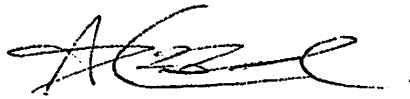
Vee Ballon on [LEAVE A COMMENT](#): "SHAME SHAME on the police ...I am in tears watching what is going on .Respect to all of you out..."

Feb 19, 12:45

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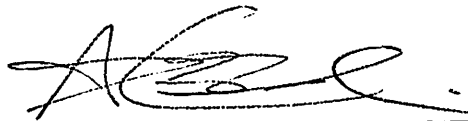
A handwritten signature in black ink, appearing to read 'A. Boissonneau-Lehner', written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner

Exhibit C - <https://johnstonecowling-my.sharepoint.com/:f:/p/alehner/En4e3Ce4xbNHhG5K5VHmXP4B5U7lIOzupKiOtD-wxS2-zQ?e=2dNeEl>

This is Exhibit "D" to the Affidavit of Kristen Nagle
sworn March 4, 2022

A handwritten signature in black ink, appearing to read 'ALE', is positioned above a horizontal line.

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Alexander Boissonneau-Lehner

Exhibit D - <https://johnstonecowling-my.sharepoint.com/:f:/p/alehner/EiTqhtMjg4tNpcFAclzNwUwBnysnpMtkKCjhwdwcoxRS4g?e=LncB08>

This is Exhibit "E" to the Affidavit of Kristen Nagle
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A handwritten signature in black ink, appearing to read 'ALEX', is positioned above a horizontal line.

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Alexander Boissonneau-Lehner



← Thread



Caryma Sa'd - Lawyer + Political Satirist @CarymaRules · Feb 14 ...

It looks like there's a couple of hundred dollars in this envelope being delivered to a "ground coordinator" from a woman in a Canadian Frontline Nurses toque.

[#cdnpoli](#) [#FreedomConvoy](#) [#Ottawa](#)



42

142

221



Caryma Sa'd - Lawyer + Political Satirist
@CarymaRules

I don't know who either of these people are in relation to the convoy/occupation.



2:50 PM · Feb 14, 2022 · Twitter for iPhone

26 Retweets 2 Quote Tweets 87 Likes



Caryma Sa'd - Lawyer + Political Satirist @CarymaRules · Feb 14 ...

Replying to @CarymaRules

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11 36 118



Howard McGregor @rhmac_howard · Feb 14

Replying to @CarymaRules
Change back for services rendered?

2 2

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Erin @erin_splinters · Feb 14

Replying to @CarymaRules
Ironically, their website references the "injustice of abortion" ffs.

3



brian @briansendtweet · Feb 14

Replying to @CarymaRules
Kristen Nagle possibly? She was seen 4 days ago wearing that same toque/coat

3 10



Anny @annyeleni · Feb 14

Yup it's her

1 2

[Show replies](#)



Hope Barrett 🍷 @AuthorwAttitude · Feb 14

Replying to @CarymaRules
Man, I was hoping this was going to be a story about a good daughter giving her father some money but then I googled Canadian Frontline Nurses 😞

2



Todd Goldsbie @toddfg · Feb 14

Replying to @CarymaRules
Professional gifters at work. Nothing to see here.

1



dee gaud @gaudall · Feb 14

Replying to @CarymaRules
I believe the woman is Kristen Nagle. An anti masker and anti vaxxer

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Yes, an RN who's license is under review, from London Ont.

3

5

44



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Abby @abbythetweet · Feb 14

Replying to @CarymaRules

That is Kristen Nagle, who's face is on the CFN website. Real fascinating exchange of funds in support of continued occupation, even though CFN says they just care about natural immunity before vaccines...



Kristen

Registered Nurse, BScN, RHN

1



4



Neli Trevisan @neli_trevisan · Feb 14

Replying to @CarymaRules

Canada First is a fringe group of unlicensed former nurses who have been disciplined and had their registration revoked by their college. This woman is one of their spokespersons.

1



3



Jeremy McCall @jmccall54 · Feb 14

Replying to @CarymaRules

She's the same person recently screaming at CBC about how their "lies" cost her and her husband (a teacher) their jobs. But she's able to wander around and handle packets of cash out to protestors. Interesting.

1



6



Miztwocents13 @miztwocents13 · Feb 19

Wearing a Nurses toque as well

1



1



Samantha Smith @Samanthablab · Feb 14

Replying to @CarymaRules

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**Seeds in Putin's Pocket** 🌻🌱 @CoinBitty · Feb 15

Replying to @CarymaRules

FrontLine Nurses are against the vaccine mandate.

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**Caryma Sa'd ...**

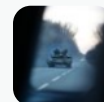
@CarymaRules

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sworn March 4, 2022

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Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner

OTTAWA POLICE SERVICE

NOTICE TO DEMONSTRATION PARTICIPANTS

You must leave the area now. Anyone blocking streets, or assisting others in the blocking streets, are committing a criminal offence and you may be arrested. You must immediately cease further unlawful activity or you will face charges. If you are arrested you may be released on bail depending on factors contained in Part XVI of the Criminal Code.

The people of Ottawa are being denied the lawful use, enjoyment and operation of their property and you are causing businesses to close. That is mischief under the Criminal Code.

Charges and/or convictions related to unlawful activity associated with the demonstration may lead to denial in crossing the USA border.

The Federal Emergencies Act allows for the regulation or prohibition of travel to, from or within any specified area. This means that anyone coming to Ottawa for the purpose of joining the ongoing demonstration is breaking the law. The act also provides police with a number of measures including the ability to seize vehicles that are part of this demonstration.

Ontario law (EMCPA) now prohibits interference with any critical infrastructure including 400-series highways, railways, airports and international border crossings. It prohibits you from preventing someone from travelling to or from walkways, bridges and highways (other than 400 series highways) or preventing anyone from using them. It also prohibits someone from seriously interfering with the safety, health or well-being of members of the public.

Anyone who commits these illegal actions could face fines or be required to appear in court. Commercial vehicle drivers' licences and private drivers' licences can be suspended or revoked.



This is Exhibit "G" to the Affidavit of Kristen Nagle
sworn March 4, 2022

A handwritten signature in black ink, appearing to read 'ALEX', is positioned above a horizontal line.

Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner

**Canadian Frontline Nurses**

February 23 at 5:28 PM · 🌐



Canadian Frontline Nurses 🇨🇦 are going to Federal Court Friday 25th of February at 10am to challenge the government's use of the Emergency Act.

Contributions towards Canadian Frontline Nurses' legal costs for application against the Canadian government's misuse of the Emergency Act are greatly appreciated

If interested, please send an etransfer at CFLNLEGALFEES@PROTONMAIL.COM...
See more

**Canadian Frontline Nurses
Are going to federal court
Friday 25th 10am
To challenge the governments
use of the emergency act.**



469

52 Comments 82 Shares

Like

Comment

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Most relevant ▼

Write a comment...



George Choboter

I dont see why you can't use GIVESENDGO...they can't freeze that...you are asking to support fir court action..not occupation like they govt try to use to steal funds.

Like Reply 1w Edited



Valerie Chappel

George Choboter they seem to be doing whatever they want regardless of the law and validity of it. Justin Castro is unreal as is anyone on his same trajectory.

Like Reply 1w



Reply to George Choboter...



Cathy Sutton

I've heard they've been confiscating all the money and freezing peoples bank accounts that do donate

Like Reply 1w



Author

Canadian Frontline Nurses

Cathy Sutton that was for the convoy

Like Reply 1w



Concetta D'Ottavio Di Bernardo

Are you able to safeguard your donations from the system?

Like Reply 1w Edited



Author

Canadian Frontline Nurses

Concetta D'Ottavio Di Bernardo they can't touch donations for

legal fees...but then again, I guess anything is possible these days 😞 000067

Like Reply 1w



Marie DeMasi

Much Love and Support from America 🇺🇸 ❤️ 🇨🇦 GOD BLESS YOU ❤️ 🇺🇸 🇨🇦

Like Reply 1w



Pina Crupi

PIERRE TRUDEAU former Liberal Prime Minister known to support socialist/communists interests implemented the Charter in 1982 which allows government to erode our rights and freedom. The communist states that we have seen established in other countries ... [See more](#)

Like Reply 1w



Cori McCaw

So what now that the E Act has been revoked? The mandates are still in place and must be revoked as well! All of this needs to end now!

Like Reply 1w



Karin Bohusova

Thank you Kristen. I wish you were using the Bill of Rights. But unfortunately the lawyers are "emotionally" attached to the Charter. The Charter is very similar to what we had in my country of origin - socialistic Czechoslovakia. We had constitution w... [See more](#)

Like Reply 1w



↳ 3 Replies



Melanie Levac

We are sitting in the middle of a field, watching attentively how to proceed. So please do keep us updated.. we'll follow suit 🇺🇸 🇨🇦 ❤️ 🇺🇸

Like Reply 4d



Amy Lynn

Could you send me the newsletter!! RN here.. facing probable termination

Like Reply 1w



↳ 1 Reply

**Valerie Chappel**

Thank God for you and the Truckers and protestors! ❤️🙏

Like Reply 1w

**Michael Collins**

Frontline Nurses Rule! 🙏❤️ 4

Like Reply 1w

Most Relevant is selected, so some replies may have been filtered out.



Reply to Michael Collins...

**Brenda Pearce**

Those measures have apparently been dropped now. Does that drop the case now? Just asking if that affects it now.

Like Reply 1w

**Mary Therese**

Awesome nurses!! Praying you defeat tyranny. Love & support from Australia



Like Reply 1w

**Peggy Larson**

Stop!!! Don't use the charter!!!!

Like Reply 1w

**Adam White**

The Emergency Act application was withdrawn. Has the premise to suing changed?

Like Reply 1w Edited

**Colleen Raine Chretien**

Like Reply 1w

**Allan Wooden**

As much as I want to help you. Im doing all I can to remove Biden!

Like Reply 1w

**Rose Elia**

Like Reply 6d

000069



Kris Marion



Like Reply 1w



Madeline Audrey Bruce

Bravo. I am proud of you my sisters - Retired RPN.



Like Reply 1w



Author

Canadian Frontline Nurses

Madeline Audrey Bruce please send us your email if interested to receive our newsletter and what we are up to

Like Reply 1w



Madeline Audrey Bruce

Canadian Frontline Nurses oldcity@shaw.ca

Like Reply 6d

Most Relevant is selected, so some replies may have been filtered out.



Marygrace Coneff

How do you donate via email?

Like Reply 1w



Elicia Koehn

Yay!! Sending all the love and light your way ❤️❤️😄😄

Like Reply 1w



Mike Delarmee

OMG I was totally right about you being an anti- Democratic pro treasonous right wing group after I saw that you attended the most weight ring news organization in America "OAN"..

Like Reply 1w

↪ 1 Reply

Most Relevant is selected, so some comments may have been filtered out.

Write a comment...

Court File No.: T-306-22

FEDERAL COURT

B E T W E E N:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLEApplicants
(Moving Parties)

and

ATTORNEY GENERAL OF CANADARespondent
(Responding Party)

**WRITTEN REPRESENTATIONS OF THE RESPONDENT IN RESPONSE TO
APPLICANTS' MOTION TO AMEND THE NOTICE OF APPLICATION**

A. OVERVIEW

1. The Applicants' proposed amendments to their Notice of Application are without foundation and they should be dismissed. The Amended Notice of Application ("Amended NoA") provides insufficient particulars about the Applicants' claims under the *Charter of Rights and Freedoms* ("Charter"). The amendments are unsupported by material facts, and do not identify the governmental action or legislative provisions that purportedly infringe the *Charter*.

2. Moreover the application itself, whether in its original form or through the proposed Amended NoA, cannot proceed because it is bereft of any chance of success. Not only do the Applicants have no standing to bring this application, the issues they raise are moot. As a result, the application should be dismissed.

PART I – STATEMENT OF FACTS

3. On February 14, 2022, the Governor in Council (“GIC”) issued a proclamation pursuant to s. 17(1) of the *Emergencies Act*,¹ declaring that a public order emergency existed throughout Canada, and necessitated the taking of special temporary measures for dealing with the emergency (“Proclamation”).²

4. Pursuant to s. 19(1) of the *Act*, on the recommendation of the Minister of Public Safety and Emergency Preparedness, the GIC made the *Emergency Measures Regulations*, (the “Regulations”)³ and the *Emergency Economic Measures Order* (the “Order”).⁴

5. On February 18, 2022, the Applicants commenced an application for judicial review challenging the Proclamation on the basis that it is *ultra vires*, unreasonable, and violates section 2 of the *Charter* and the *Canadian Bill of Rights*.

6. On February 19, 2022, counsel for the Applicant served a Notice of Constitutional Question (“NCQ”) on the Respondent and the provincial Attorneys General.⁵ The NCQ challenges the constitutionality of the Proclamation and related orders on the basis of ss. 7, 2(b), 2(c), 2(d), 8, 9,

¹ [Emergencies Act](#), R.S.C., 1986, c. 22 (4th Supp.) (“the Act”), Responding Record of the Attorney General of Canada (“RR”) Tab 5A.

² [P.C. 2022-0106](#), February 14, 2022, RR Tab 5B.

³ [P.C. 2022-0107](#), February 15, 2022, RR Tab 5C.

⁴ [P.C. 2022-0108](#), February 15, 2022, [Canada Gazette, Part II, Volume 156](#), Extra Number 1, RR Tab 5D.

⁵ Affidavit of Simon Sigler, sworn March 29, 2022 (“Sigler Affidavit”), Exhibit A.

and 11 of the *Charter*. The four-paged NCQ pleads no material facts of its own and refers back to the facts plead in the Notice of Application.

7. On February 23, 2022, the GIC issued the *Proclamation Revoking the Declaration of a Public Order Emergency*, which revoked the declaration of a state of emergency under the *Emergencies Act*.⁶ Pursuant to s. 15(2) of the *Emergencies Act*, the Order and Regulations made pursuant to the *Act* were also revoked upon the revocation of the declaration of a public order emergency.

8. On March 1, 2022, Justice Mosley dismissed the Applicants' interim motion to stay the Proclamation and related orders on the basis that it was moot.⁷ The Court further held that "the question of whether the underlying application for judicial review may proceed to determination on its merits, notwithstanding revocation of the proclamation and orders, will be decided at a later date on the basis of a fuller evidentiary record and submissions by the parties."⁸

9. By way of a letter to the Court dated March 11, 2022, counsel for the Applicants served on the Respondent their Amended Notice of Application ("Amended NOA").⁹ In that same letter, Applicants' counsel objected to the Respondent bringing a motion to strike the application.¹⁰

⁶ *Proclamation Revoking the Declaration of a Public Order Emergency*, [SOR/2022-26](#), February 23, 2022, RR Tab 5E.

⁷ *Canadian Frontline Nurses and Kristen Nagle v. Attorney General of Canada*, 2022 FC 284 [unreported], RR Tab 4.

⁸ *ibid.*, at para 2, RR Tab 4.

⁹ Sigler Affidavit, Exhibit E.

¹⁰ *ibid.*

10. The Amended NoA deletes the request for an interim stay, adds reference to an additional affidavit, and adds boilerplate statements that the Proclamation and related orders violate ss. 7, 8, 9, 11 of the *Charter*.¹¹

11. Following a case management conference on March 11, the Court issued a direction that the parties advise as soon as possible whether a motion to amend was required.¹²

12. On March 25, 2022, counsel for the Respondent advised the Applicants' counsel that the Respondent does not consent to the Amended NoA.¹³

13. The Amended NoA was raised at the case management conference on March 25, 2022. Counsel for the Respondent, Mr. Provart, explained the Respondent's position:

Well, I think the problem is that we're talking about just adding a few grounds of the *Charter* sounds all very straightforward, but of course it has significant consequences in terms of the scope and ambit of the case, and how we respond, and the rest of it. So we need to have a motion and know what we're dealing with.¹⁴

14. On March 29, 2022, counsel for the Applicants served their motion to amend the Notice of Application.

¹¹ Amended NoA, at pp 22-23, Applicant's Motion Record, Schedule A

¹² Sigler Affidavit, Exhibit F.

¹³ Sigler Affidavit, Exhibit I.

¹⁴ Transcript of Case Management Call, March 25, 2022, at p. 22 lines 22-28, RR Tab 1.

PART II - POINTS IN ISSUE

15. The proposed amendments in the Notice of Application would not survive a motion to strike, and should therefore be refused. More importantly, as demonstrated by the Respondent's cross-motion, the application itself is bereft of any chance of success and should be struck in its entirety and in any event.

PART III – SUBMISSIONS

A. Applicable Legal Principles

16. The general principle under Rule 75(1) of the *Federal Court Rules* is that a party may amend a pleading at any time, on motion, on such terms as will respect the rights of the parties.¹⁵

17. A proposed amendment must be refused if it is plain and obvious, assuming the facts to be plead, that the pleading discloses no cause of action.¹⁶ In determining whether an amendment should be allowed, the Court should ask itself whether the amendment, if it were already part of the proposed pleadings, would be struck out.¹⁷ If the answer is yes, the amendment should not be allowed.¹⁸

¹⁵ *Federal Court Rules*, [SOR/98-106](#), Rule [75\(1\)](#).

¹⁶ *McCain Foods Limited v. J.R. Simplot Company*, [2021 FCA 4](#), at [para 20](#).

¹⁷ *ibid*, at [para 22](#).

¹⁸ *ibid*.

18. The threshold for striking a notice of application is the same as that of striking an action.¹⁹ The Court will consider whether the application is “so clearly improper as to be bereft of any chance of success”²⁰ or whether there is “a ‘show stopper’ or a ‘knockout punch’ – an obvious, fatal flaw striking at the root of this Court’s power to entertain the application.”²¹

19. The power to strike out unmeritorious claims early is “a valuable housekeeping measure essential to effective and fair litigation. It unclutters the proceedings, weeding out the hopeless claims and ensuring that those that have some chance of success go on to trial.”²²

20. A notice of application that is moot may be struck on a motion to strike.²³ Amending a moot notice of application does not insulate it from a finding of mootness.²⁴

21. The purpose of a pleading is to provide the opposing party with a notice of the case they have to meet. It is incumbent on the claimant to plead the facts with sufficient particularity to show a reasonable cause of action.²⁵

¹⁹ *Wenham v Canada (Attorney General)*, [2018 FCA 199](#) at [paras 32-33](#).

²⁰ *David Bull Laboratories (Canada) Inc v Pharmacia Inc*, [\[1995\] 1 FC 588](#), at 600.

²¹ *Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc*, [2013 FCA 250](#), at [para 47](#).

²² *R v. Imperial Tobacco Canada*, [2011 SCC 42](#), at [para 19](#) (“*Imperial Tobacco*”). See also *Canada (Attorney General) v. Lameman*, [2008 SCC 14](#), at [para 10](#).

²³ *Rebel News Network Ltd v Canada (Leaders’ Debates Commission)*, [2020 FC 1181](#), at [para 34](#) (“*Rebel News*”).

²⁴ *Rebel News* at [para 49](#).

²⁵ *Ward v. Canada (Public Safety & Emergency Preparedness)*, [2014 FC 568](#); *Imperial Tobacco*, at [para 22](#).

B. The Proposed Amendments are Bereft of Any Chance of Success**(i) The Amended NoA is Moot and Applicants Do Not Have Standing**

22. It is plain and obvious that the Amended NoA cannot succeed because it is moot. The impugned Proclamation and related orders were revoked on February 23, 2022, which is several days after the Applicants commenced their application.

23. In addition, the Applicants do not have standing to bring this application. They have presented no evidence to establish that they were directly affected by the Proclamation and related orders.

24. The Respondent addresses these arguments more fully in its cross-motion to strike this and the other related applications on the grounds of mootness and lack of standing, and relies on the submissions contained therein; these motions should be dealt with together.

(ii) The Amended NoA Lacks Sufficient Particulars

25. The Amended NoA is bereft of any chances of success because it contains insufficient particularity in respect of the *Charter* claims, which significantly expand the scope of the application. There are no material facts or any articulation of the nature of the Applicants' *Charter* claims to notify the Respondent of the case it has to meet. This lack of particularity is prejudicial to the Respondent.

26. For instance, the Amended NoA pleads that the Proclamation and related orders infringe s. 11 of the *Charter* that protects, among other rights, the right to be tried in a reasonable time, and to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal. The Amended NoA does not link this ground to any governmental action or legislative provision, and does not explain how s. 11 is even engaged in the context of the Proclamation and related orders.

27. Similarly, the Amended NoA pleads an infringement of the s. 9 right to not be arbitrarily detained or imprisoned. No facts are plead to state that the Applicants or anyone was detained or imprisoned. The Amended NoA identifies no governmental action or legislative provision that it considers to be arbitrary. The remaining ss. 2, 7, and 8 pleadings are similarly deficient.

28. The Applicants' NCQ is of no assistance in this regard. It simply contains a list of constitutional questions containing boilerplate language about *Charter* infringement.

29. The Affidavit of Kristen Nagle, sworn on March 4, 2022, and served under Rule 306 states that she was neither charged under the emergency measures, nor was her bank account or that of CFN was frozen.²⁶ These facts further obscure the Applicants' *Charter* claims, and provide no assistance with a determination of the basis and scope of the amendments in the Amended NoA. The additional affidavit evidence purportedly filed in support of this application offer no further relevant facts or context.

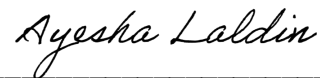
²⁶ Affidavit of Kristin Nagle, sworn March 4, 2022, at paras 39-40, RR Tab 2.

PART IV - ORDER SOUGHT

30. The Respondent seeks an Order dismissing the Applicants' motion to amend with costs payable in any event of the cause.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED at the City of Toronto, in the province of Ontario, this 11th day of April, 2022.



Ayesha Laldin
Counsel for the Respondent

PART V – LIST OF AUTHORITIES

STATUTES AND REGULATIONS

- 1) [Emergencies Act](#), R.S.C., 1986, c. 22 (4th Supp.), ss. 15(2) and 17(2)
- 2) [Proclamation Declaring a Public Order Emergency](#), P.C. 2022-0106, February 14, 2022
- 3) [Emergency Measures Regulations](#), P.C. 2022-0107, February 15, 2022
- 4) [Emergency Economic Measures Order](#), P.C. 2022-0108, February 15, 2022
- 5) [Proclamation Revoking the Declaration of a Public Order Emergency](#), SOR/2022-26, February 23, 2022.

CASES

- 1) *Canadian Frontline Nurses and Kristen Nagle v. Attorney General of Canada*, 2022 FC 284
- 2) *McCain Foods Limited v. J.R. Simplot Company*, [2021 FCA 4](#)
- 3) *Wenham v Canada (Attorney General)*, [2018 FCA 199](#)
- 4) *David Bull Laboratories (Canada) Inc v Pharmacia Inc*, [\[1995\] 1 FC 588](#)
- 5) *Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc*, [2013 FCA 250](#)
- 6) *R v. Imperial Tobacco Canada*, [2011 SCC 42](#)
- 7) *Canada (Attorney General) v. Lameman*, [2008 SCC 14](#)
- 8) *Rebel News Network Ltd v Canada (Leaders' Debates Commission)*, [2020 FC 1181](#)
- 9) *Ward v. Canada (Public Safety & Emergency Preparedness)*, [2014 FC 568](#)

Federal Court



Cour fédérale

Date: 20220301

Docket: T-306-22

Citation: 2022 FC 284

Ottawa, Ontario, March 1, 2022

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

CANADIAN FRONTLINE NURSES and KRISTEN NAGLE

Applicants

and

THE ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

I. Overview

[1] This is an order and reasons respecting a motion for an interlocutory injunction, or stay, of the *Public Order Emergency Proclamation* and related orders issued by the Governor in Council on February 14 and 15, 2022, pending the hearing of the Applicants' application for judicial review of the proclamation and orders.

[2] Before the motion could be heard, the proclamation of a state of emergency was revoked, as were all orders and regulations made pursuant to the proclamation. As a result, the motion is moot and must be dismissed. The question of whether the underlying application for judicial review may proceed to a determination on its merits, notwithstanding revocation of the proclamation and orders, will be decided at a later date on the basis of a fuller evidentiary record and submissions by the parties. This motion order does not address that question. Nothing in these reasons should be construed as a finding in relation to the merits of the underlying application and whether it may still be heard and determined.

[3] The Applicant, Canadian Frontline Nurses, is a registered not-for-profit corporation. The Applicant, Kristen Nagle, is a Registered Nurse and a director and member of Canadian Frontline Nurses. The Attorney General of Canada is the representative Respondent on behalf of the Governor in Council.

II. **Legal Context**

[4] On February 14, 2022, Order in Council P.C. 2022-106, the *Public Order Emergency Proclamation*, was issued pursuant to s 17(1) of the *Emergencies Act*, RSC 1985, c 22 (4th Supp) (the *Emergencies Act* or the *Act*). The following day, Order in Council P.C. 2022-107, the *Emergency Measures Regulations*, and Order in Council P.C. 2022-108, the *Emergency Economic Measures Order*, were issued pursuant to the *Public Order Emergency Proclamation*.

[5] On Friday, February 18, 2022 the Applicants filed an application for judicial review seeking declaratory and other relief in respect of the *Public Order Emergency Proclamation*, the

Emergency Measures Regulations, the *Emergency Economic Measures Order* and any other regulations, orders or measures issued or implemented pursuant to the *Proclamation*.

[6] Also on February 18, 2022, the Applicants filed a Notice of Motion seeking a temporary interlocutory order staying Order in Council P.C. 2022–106 until their judicial review application is heard and determined. Furthermore, they sought the issuance of other procedural orders and costs of the motion on a substantial or full indemnity basis. In support of the motion, the Applicants filed a Motion Record that included the affidavit of Kristen Nagle and the affidavit of the Applicants' lawyer attaching copies of the legislative instruments as exhibits.

[7] In her affidavit sworn on February 18, 2022, Ms. Nagle deposed that she had participated in the protests in Ottawa, that Canadian Frontline Nurses required access to funds stored at financial institutions to support its mission, that she had bank accounts and credit cards and needed access to funds to secure necessities of life for herself and her family. Ms. Nagle deposed that she wished to continue to express her opinions in the protests but could not conceive of how she would be able to do so if she was prevented from receiving, directly or indirectly, funds necessary to maintain life. She did not depose that her bank accounts, credit cards or other funds had been seized or restrained.

[8] With the Notice of Motion and Motion Record, the Applicants also submitted an informal request by letter pursuant to Rule 35 (2) of the *Federal Courts Rules*, SOR/98-106 seeking the appointment of a special time and place for the motion to be heard, other than at the General Sittings of the Court, and for the convening of an urgent case conference. In response to the

request for an expedited hearing, Chief Justice Crampton ordered that the matter continue as a specially managed proceeding and appointed the undersigned and Prothonotary Milczynski as Case Management Judges. The Court then issued a direction convening a case management conference with counsel for the parties for Tuesday, February 22, 2022.

[9] At the case management conference on February 22, 2022, the motion was set down for hearing on Friday February 25, 2022 with an abridged time-table for the filing of the Respondent's Motion Record.

[10] On February 23, 2022 the Governor in Council issued the *Proclamation Revoking the Declaration of a Public Order Emergency*, SOR/2022-26, [Revoking Proclamation] which revoked the declaration of a state of emergency under the *Emergencies Act*. Pursuant to s 26(2) of the *Emergencies Act*, all orders and regulations made pursuant to the declaration were revoked effective on the revocation of the declaration.

[11] As a result of the issuance of the *Revoking Proclamation*, the Court requested the Registry to contact counsel for the parties on February 24, 2022 to ascertain their views on whether the motion was now moot and the hearing could be cancelled. Counsel for the Respondent advised that the matter was moot and there was no need for a hearing. Counsel for the Applicants disagreed and asked that the hearing proceed. When asked again for a substantive explanation of their position, counsel submitted a brief statement by email noting that costs remained a live issue between the parties and submitted that "...to the extent that the request for an interim stay...is rendered moot by the [Revoking Proclamation] ... the Court has jurisdiction

to hear the motion in spite of mootness...” citing the decision of the Supreme Court of Canada in *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 [*Borowski*].

[12] A further direction was then issued that the Court would hear the parties on the issue of costs and on the question of whether the principles expressed in *Borowski* had any application in the context of a motion for a stay that is moot.

III. Issues

[13] At the outset of the hearing, the Applicants took the position that the motion was not moot because they considered that they were still at risk of prosecutions or of having their accounts and credit cards restrained for their actions during the period between the issuance of the *Public Order Emergency Proclamation* and the issuance of the *Revoking Proclamation* on February 23, 2022. Counsel for the Applicants acknowledged that this had not in fact happened and, as the hearing progressed, conceded that if there was no longer any risk of his clients being prosecuted or of having their funds restrained there were no grounds for a stay.

[14] The Applicants continued to maintain that the costs of the motion remained a live controversy between the parties and that costs should be awarded in their favour to be paid forthwith on a full or substantial indemnity basis. This was based largely on the assertion that they had succeeded as a result of the issuance of the *Revoking Proclamation* following the filing of their Notice of Motion.

[15] For the sake of clarity, it is appropriate to lay out the Court's views on several questions to explain why this motion is being dismissed and to avoid any confusion going forward. Those questions are as follows:

- 1) Why is the motion being dismissed for mootness?
- 2) Are the Applicants entitled to costs on the motion notwithstanding that it is being dismissed for mootness?

IV. **Analysis**

A. Why is the motion being dismissed for mootness?

[16] In *Borowski*, the Supreme Court of Canada set out general principles for dealing with the concept of mootness. The Court noted, at paragraph 15, that the doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question.

[17] The general principle applies when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties. If the decision of the court will have no practical effect on such rights, the court will decline to decide the case.

[18] The question of mootness can arise at any time before a decision is rendered. If, as in this context, events occur such that no present live controversy exists which affects the rights of the parties, the case is said to be moot and will not be decided. This general policy or practice is

followed in most cases unless the Court exercises its discretion to depart from it, applying criteria such as the concern for judicial economy, whether the adversarial relationship between the parties will continue and whether the case raises an issue of public importance of which a resolution is in the public interest.

[19] In the present matter, determination of the stay motion would have no practical effect because the legislative instruments made pursuant to the *Emergencies Act* including the *Public Order Emergency Proclamation* have already been revoked. To the extent that there remains an adversarial relationship between the parties, it is reflected in the Application for Judicial Review of the issuance of the *Proclamation*. The question of whether that application raises an issue of public importance of which a resolution is in the public interest can be determined at a later date based on a more complete evidentiary record and full argument between the parties.

[20] In their Supplemental Book of Authorities, the Applicants rely on *British Columbia Civil Liberties Association v Canada (Royal Mounted Police)*, 2021 FC 1475 [BCCLA], in which Associate Chief Justice Gagné exercised the Court’s discretion in accordance with the *Borowski* principles to dispose of a matter that was moot. However, it should be noted that in that case, the Court’s discretion was exercised only in regard to declaratory relief going to the merits of the application for judicial review, while the writ of mandamus initially sought by the Applicants was not disposed of, as even the Applicants conceded it was “without object” on account of its mootness: BCCLA at paras 6, 52.

B. *Are the Applicants entitled to costs on the motion notwithstanding that it is being dismissed for mootness?*

[21] There is no evidence before the Court that would support the claim made by counsel in argument that the Applicants had achieved success on the motion deserving of an award of costs, let alone costs on a full or substantial indemnity basis. There is no evidence upon which a reasonable inference could be drawn that the decision to issue the *Revoking Proclamation* was in any way related to the filing of the stay motion by the Applicants.

[22] Moreover, it should be noted that the Applicants' prospects of success on the motion were remote, based on the record before the Court, even if the *Proclamation* and related Orders in Council had remained in effect. This is relevant because implicit in the Applicants' contention that they should be awarded costs on the motion is the assumption that they would have succeeded should it not have been determined to be moot.

[23] An interlocutory order like a stay is an extraordinary and equitable form of relief. A decision to grant or refuse such relief is a discretionary one that must be made having regard to all of the relevant circumstances. The test for the issuance of an interim injunction, or stay of proceedings, is that set out by the Supreme Court of Canada in *Manitoba (Attorney General) v Metropolitan Stores Ltd*, [1987] 1 SCR 110; and *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 at 334 [*RJR McDonald*].

[24] An applicant seeking a stay must demonstrate three things: (1) that the underlying application for judicial review raises a "serious question to be tried;" (2) that the applicant will

suffer irreparable harm if the stay is refused; and (3) that the balance of convenience (i.e. the assessment of which party would suffer greater harm from the granting or refusal of the injunction pending a decision on the merits of the judicial review application) favours granting the stay. The three branches or arms of the test are conjunctive. They must all be established.

[25] As counsel for the Applicants acknowledged during the hearing, the serious issue to be tried standard is elevated in the present matter because the stay, if granted, would effectively provide the remedy sought in the underlying application: *Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81. The Applicants would have had to demonstrate a likelihood of success on the underlying application. When the object of the motion is to stay the operation of what are on their face duly enacted laws, the threshold is very high. It is only in the clearest of cases that injunctions will issue to enjoin the operation of legislation: *Harper v Canada (Attorney General)*, 2000 SCC 57 at para 9 [*Harper*].

[26] The second branch of the stay test would also have been a formidable obstacle for the Applicants. To establish irreparable harm, an applicant must show that there is “real, definite, unavoidable harm – not hypothetical and speculative harm”: *Janssen Inc v Abbvie Corporation*, 2014 FCA 112 at para 24. There must be evidence at a convincing level of particularity that demonstrates a real probability that unavoidable irreparable harm will result unless the stay is granted: *Glooscap Heritage Society v Minister of National Revenue*, 2012 FCA 255 at para 31.

[27] Ms. Nagle’s evidence was, at best, speculative about the possible economic harms that might befall the organization and herself. There is no evidence that she qualified as a “designated

person” who might have been targeted for application of the financial measures. Some unidentified people at the protests in Ottawa had told her that their bank accounts were frozen after the *Emergencies Act* was invoked. Aside from the inadmissible hearsay aspect of this statement, it falls short of establishing clear and non-speculative irreparable harm.

[28] On the balance of convenience, the public interest must be taken into account, which includes the presumption that validly enacted measures are made for the public good and serve a legitimate purpose: *RJR McDonald* at p 343, 346, 348-49; *Harper* at para 9. The validity of those measures may be called into question, as it has in the underlying application for judicial review, but such a determination would not be made on an inadequate record in a motion for a stay. There will be opportunities to consider and determine whether the invocation of the *Act* was justified. This is not one of them. The Applicants are not entitled to costs for having filed a motion for a stay that was doomed to failure from the outset.

[29] In their oral argument, the Applicants relied on *R v Dadzie*, 2018 ONSC 1332 at para 10 [*Dadzie*], *Broomer v Ontario (Attorney General)* (2004), 121 CRR (2d) 163 (ON SCDC) at para 11 [*Broomer*], and on *Josef v Ontario Minister of Health*, 2013 ONSC 6091 at para 18 [*Josef*] to argue that costs against the Respondents should be awarded to the Applicants, as the Respondents’ act obviated the necessity for the continuation of the motion. The Applicants contend that the circumstances of the present motion are such that the criteria set out in those three cases for an award of costs in favour of the Applicants are met: a) the applicants are public interest litigants and the application raises issues of general public interest; b) the government

causes the application to become moot; c) as a result of the government's actions, the applicant has effectively achieved what it wanted on the application: *Dadzie* at para 10.

[30] However, all three of these cases may be distinguished from the present motion. In *Broomer*, the applicants had been specifically targeted by regulations and been issued lifetime bans on social assistance as a result. The repeal of those regulations had the effect of restoring the applicants' entitlements. Conversely, in the present motion, there is no evidence on record indicating that the Applicants ever were in fact targeted by specific emergency measures; thus, the repeal of those measures did not have the effect of restoring any rights or entitlements of the Applicants that may have been lost. In *Josef*, the change in public policy deprived the applicant of her day in court as the application was adjourned on consent and had not been argued on the merits, while in the present matter, the Applicants' motion for a stay was given a full hearing on February 25, 2022. Finally, *Dadzie* does not support the position of the Applicants, as in that decision, the Ontario Superior Court of Justice held that the three criteria enumerated above were not met: *Dadzie* at para 11.

[31] The Respondent has proposed that the question of costs be left to be determined in the cause, that is to say in the outcome of the underlying application for judicial review. That is, in the Court's view, a reasonable position.

ORDER IN T-306-22

THIS COURT ORDERS that the motion for an interim injunction is dismissed. Costs to be in the cause.

"Richard G. Mosley"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-306-22

STYLE OF CAUSE: CANADIAN FRONTLINE NURSES and KRISTEN
NAGLE V THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HEARD VIA VIDEOCONFERENCE OTTAWA AND
TORONTO

DATE OF HEARING: FEBRUARY 25, 2022

ORDER AND REASONS: MOSLEY J.

DATED: MARCH 1, 2022

APPEARANCES:

Alexander Boissonneau-Lehner
Simon Sigler
David G. Cowling

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CANADA

CONSOLIDATION

CODIFICATION

Emergencies Act

Loi sur les mesures d'urgence

R.S.C. 1985, c. 22 (4th Supp.)

S.R.C. 1985, ch. 22 (4^e suppl.)

NOTE

[1988, c. 29, assented to 21st July, 1988]

NOTE

[1988, ch. 29, sanctionné le 21 juillet 1988]

Current to March 22, 2022

À jour au 22 mars 2022

Last amended on July 2, 2003

Dernière modification le 2 juillet 2003

Effect of Expiration or Revocation

Effect of expiration of declaration

15 (1) Where, pursuant to this Act, a declaration of a public welfare emergency expires either generally or with respect to any area of Canada, all orders and regulations made pursuant to the declaration or all orders and regulations so made, to the extent that they apply with respect to that area, as the case may be, expire on the day on which the declaration expires.

Effect of revocation of declaration

(2) Where, pursuant to this Act, a declaration of a public welfare emergency is revoked either generally or with respect to any area of Canada, all orders and regulations made pursuant to the declaration or all orders and regulations so made, to the extent that they apply with respect to that area, as the case may be, are revoked effective on the revocation of the declaration.

Effect of revocation of continuation

(3) Where, pursuant to this Act, a proclamation continuing a declaration of a public welfare emergency either generally or with respect to any area of Canada is revoked after the time the declaration would, but for the proclamation, have otherwise expired either generally or with respect to that area,

(a) the declaration and all orders and regulations made pursuant to the declaration, or

(b) the declaration and all orders and regulations made pursuant to the declaration to the extent that the declaration, orders and regulations apply with respect to that area,

as the case may be, are revoked effective on the revocation of the proclamation.

Effect of revocation of amendment

(4) Where, pursuant to this Act, a proclamation amending a declaration of a public welfare emergency is revoked, all orders and regulations made pursuant to the amendment and all orders and regulations to the extent that they apply pursuant to the amendment are revoked effective on the revocation of the proclamation.

Conséquences de la cessation d'effet ou de l'abrogation

Cessation d'effet

15 (1) Dans les cas où, en application de la présente loi, une déclaration de sinistre cesse d'avoir effet soit de façon générale, soit à l'égard d'une zone du Canada, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui concernent cette zone, cessent d'avoir effet en même temps.

Abrogation

(2) Dans les cas où, en application de la présente loi, la déclaration est abrogée soit de façon générale, soit à l'égard d'une zone du Canada, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui concernent cette zone, sont abrogés en même temps.

Cas de prorogation

(3) Dans les cas où une proclamation de prorogation de la déclaration soit de façon générale, soit à l'égard d'une zone du Canada est abrogée après la date prévue à l'origine pour la cessation d'effet, générale ou à l'égard de cette zone, de la déclaration, celle-ci, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui concernent la zone, sont abrogés en même temps.

Cas de modification

(4) Dans les cas où, en application de la présente loi, une proclamation de modification de la déclaration est abrogée, les décrets ou règlements consécutifs à la modification, ainsi que les dispositions des autres décrets et règlements qui lui sont consécutifs, sont abrogés en même temps.

PART II

Public Order Emergency

Interpretation

Definitions

16 In this Part,

declaration of a public order emergency means a proclamation issued pursuant to subsection 17(1); (*déclaration d'état d'urgence*)

public order emergency means an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency; (*état d'urgence*)

threats to the security of Canada has the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act*. (*menaces envers la sécurité du Canada*)

Declaration of a Public Order Emergency

Declaration of a public order emergency

17 (1) When the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency, the Governor in Council, after such consultation as is required by section 25, may, by proclamation, so declare.

Contents

(2) A declaration of a public order emergency shall specify

- (a)** concisely the state of affairs constituting the emergency;
- (b)** the special temporary measures that the Governor in Council anticipates may be necessary for dealing with the emergency; and
- (c)** if the effects of the emergency do not extend to the whole of Canada, the area of Canada to which the effects of the emergency extend.

Effective date

18 (1) A declaration of a public order emergency is effective on the day on which it is issued, but a motion for

PARTIE II

État d'urgence

Définitions

Définitions

16 Les définitions qui suivent s'appliquent à la présente partie.

déclaration d'état d'urgence Proclamation prise en application du paragraphe 17(1). (*declaration of a public order emergency*)

état d'urgence Situation de crise causée par des menaces envers la sécurité du Canada d'une gravité telle qu'elle constitue une situation de crise nationale. (*public order emergency*)

menaces envers la sécurité du Canada S'entend au sens de l'article 2 de la *Loi sur le service canadien du renseignement de sécurité*. (*threats to the security of Canada*)

Déclaration d'état d'urgence

Proclamation

17 (1) Le gouverneur en conseil peut par proclamation, s'il croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire et après avoir procédé aux consultations prévues par l'article 25, faire une déclaration à cet effet.

Contenu

(2) La déclaration d'état d'urgence comporte :

- a)** une description sommaire de l'état d'urgence;
- b)** l'indication des mesures d'intervention que le gouverneur en conseil juge nécessaires pour faire face à l'état d'urgence;
- c)** si l'état d'urgence ne touche pas tout le Canada, la désignation de la zone touchée.

Prise d'effet

18 (1) La déclaration d'état d'urgence prend effet à la date de la proclamation, sous réserve du dépôt d'une



Government
of Canada

Gouvernement
du Canada

[Canada.ca](#) [\(Canada.ca\)](#) > [Home](#) > [Orders in Council Division](#) > Orders In Council - Search

PC Number: 2022-0106

Date: 2022-02-14

Whereas the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency;

And whereas the Governor in Council has, before declaring a public order emergency and in accordance with subsection 25(1) of the *Emergencies Act*, consulted the Lieutenant Governor in Council of each province, the Commissioners of Yukon and the Northwest Territories, acting with consent of their respective Executive Councils, and the Commissioner of Nunavut;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 17(1) of the *Emergencies Act*, directs that a proclamation be issued

(a) declaring that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency;

- 2 -

(b) specifying the emergency as constituted of

(i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians; and

.../3

- 3 -

(c) specifying that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are

(i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,

.../4

- 4 -

(iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(iv) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,

(v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

Attendu que la gouverneure en conseil a, conformément au paragraphe 25(1) de la *Loi sur les mesures d'urgence*, consulté le lieutenant-gouverneur en conseil de chaque province, les commissaires du Yukon et des Territoires du Nord-Ouest agissant avec l'agrément de leur conseil exécutif respectif, et le commissaire du Nunavut, avant de faire la déclaration d'état d'urgence,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil ordonne que soit prise une proclamation :

- a) déclarant qu'il se produit un état d'urgence dans tout le pays justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

.../2

- b) décrivant l'état d'urgence comme prenant la forme suivante :

(i) les blocages continus mis en place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,

(ii) les effets néfastes sur l'économie canadienne — qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) — et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,

(iii) les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,

(iv) la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,

(v) le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;

.../3

c) indiquant que la gouverneure en conseil juge les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :

(i) des mesures pour réglementer ou interdire les assemblées publiques — autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord — dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

(ii) des mesures pour habiliter toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,

.../4

(iii) des mesures pour habiliter toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer et d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,

(iv) des mesures pour habiliter la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,

(v) en cas de contravention aux décrets ou règlements d'application de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,

(vi) toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.

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Date modified: 2022-04-08

**PC Number:** 2022-0107**Date:** 2022-02-15

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council believes on reasonable grounds, that the regulation or prohibition of public assemblies in the areas referred to in these Regulations are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Measures Regulations*.

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il se produit un état d'urgence;

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il est fondé de réglementer ou d'interdire des assemblées publiques dans les endroits visés,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Règlement sur les mesures d'urgences*, ci-après.

Emergency Measures Regulations

1 The following definitions apply to these Regulations

Act means the *Emergencies Act* (*Loi*)

critical infrastructure means the following places, including any land on which they are located:

- (a) airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railway stations, railways, tramway lines, bus stations, bus depots and truck depots;
- (b) infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications;
- (c) international and interprovincial bridges and crossings;
- (d) power generation and transmission facilities;
- (e) hospitals and locations where COVID-19 vaccines are administered;
- (f) trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses.
(*infrastructures essentielles*)

foreign national has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act* (*étranger*)

peace officer means a police officer, police constable, constable, or other person employed for the preservation and maintenance of the public peace (*agent de la paix*)

protected person has the same meaning as in subsection 95(2) of the *Immigration and Refugee Protection Act* (*personne protégée*)

Prohibition — public assembly

2 (1) A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by:

- (a) the serious disruption of the movement of persons or goods or the serious interference with trade;

- (b) the interference with the functioning of critical infrastructure; or
- (c) the support of the threat or use of acts of serious violence against persons or property.

Minor

(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Prohibition — entry to Canada — foreign national

3 (1) A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1).

Exemption

(2) Subsection (1) does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations;

(c) a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*;

(d) a person who seeks to enter Canada for the purpose of making a claim for refugee protection;

(e) a protected person;

(f) a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest.

Travel

4 (1) A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.

Minor — travel near public assembly

(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

Exemptions

(3) A person is not in contravention of subsections (1) and (2) if they are

(a) a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;

(b) a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;

(c) a peace officer; or

(d) an employee or agent of the government of Canada or a province who is acting in the execution of their duties.

Use of property — prohibited assembly

5 A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.

Designation of protected places

6 The following places are designated as protected and may be secured:

(a) critical infrastructures;

- (b) *Parliament Hill* and the *parliamentary precinct* as they are defined in section 79.51 of the *Parliament of Canada Act*;
- (c) official residences;
- (d) government buildings and defence buildings
- (e) any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;
- (f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.

Direction to render essential goods and services

7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

Method of request

(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.

Verbal request

(3) Any verbal request must be confirmed in writing as soon as possible.

Period of request

8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:

- (a) the day referred to in the request;
- (b) the day on which the declaration of the public order emergency expires or is revoked; or
- (c) the day on which these Regulations are repealed.

Compensation for essential goods and services

9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

Compensation

(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case may be.

Compliance — peace officer

10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.

Contravention of Regulations

(2) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply

(a) on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Coming into force

11 This Order comes into force on the day on which it is registered.

Règlement sur les mesures d'urgences

Définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

agent de la paix Tout officier de police ou agent de police employé à la préservation et au maintien de la paix publique. (*peace officer*)

étranger S'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*. (*foreign national*)

infrastructures essentielles Les lieux ci-après, y compris le terrain sur lequel ils sont situés :

- a)** les aéroports, aérodromes, héliports, havres, ports, gares maritimes, jetées, phares, canaux, gares ferroviaires et chemins de fer, terminus d'autobus et garages d'autobus ou de camions;
- b)** les infrastructures servant à la fourniture de services publics tels que l'eau, le gaz, l'assainissement et les télécommunications;
- c)** les ponts et les ouvrages de franchissement internationaux et interprovinciaux;
- d)** les installations de production et de transmission d'énergie;
- e)** les hôpitaux et les endroits où sont administrés les vaccins contre la COVID-19;

f) les axes commerciaux et les postes frontaliers internationaux, y compris les points d'entrée, les bureaux de douanes, les entrepôts de stockage et les entrepôts d'attente.
(critical infrastructure)

Loi La Loi sur les mesures d'urgence. (Act)

personne protégée S'entend au sens du paragraphe 95(2) de la Loi sur l'immigration et la protection des réfugiés. (protected person)

Interdiction – assemblée publique

2 (1) Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants :

- a)** en entravant gravement le commerce ou la circulation des personnes et des biens;
- b)** en entravant le fonctionnement d'infrastructures essentielles;
- c)** en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens.

Mineur

(2) Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

Interdiction – entrée au Canada – étranger

3 (1) Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée.

Exemption

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

- a)** une personne inscrite à titre d'Indien sous le régime de la Loi sur les Indiens;
- b)** la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du Règlement sur l'immigration et la protection des réfugiés, qui est titulaire d'un visa de résident

permanent délivré aux termes du paragraphe 139(1) de ce règlement;

c) la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*;

d) la personne qui cherche à entrer au Canada afin de faire une demande d'asile;

e) la personne protégée;

f) sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national.

Déplacements

4 (1) Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

Déplacements à proximité d'une assemblée publique – mineur

(2) Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).

Exemptions

(3) Ne contrevient pas aux paragraphes (1) et (2) :

a) la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;

b) la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;

c) l'agent de la paix;

d) l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.

Utilisation de biens – assemblée interdite

5 Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.

Désignation de lieux protégés

6 Les lieux suivants sont protégés et peuvent être aménagés :

- a)** les infrastructures essentielles;
- b)** la *cit  parlementaire* et la *Colline parlementaire* au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;
- c)** les r sidences officielles;
- d)** les immeubles gouvernementaux et les immeubles de la d fense;
- e)** tout ou partie d'un b timent ou d'une structure servant principalement de monument  rig  en l'honneur des personnes tu es ou d c d es en raison d'une guerre — notamment un monument comm moratif de guerre ou un c notaphe —, d'un objet servant   honorer ces personnes ou   en rappeler le souvenir et se trouvant dans un tel b timent ou une telle structure ou sur le terrain o  ceux-ci sont situ s, ou d'un cimetiere;
- f)** tout autre lieu d sign  par le ministre de la S curit  publique et de la Protection civile.

Ordre de fournir des biens et services essentiels

7 (1) Toute personne doit rendre disponibles et fournir les biens et services essentiels demand s par le ministre de la S curit  publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enl vement, le remorquage et l'entreposage de v hicules, d' quipement, des structures ou de tout autre objet qui composent un blocage.

Modalités

(2) La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.

Demande verbale

(3) La demande verbale est confirmée par écrit dès que possible.

Période de validité

8 Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :

- a) la date indiquée à la demande;
- b) la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;
- c) la date de l'abrogation du présent règlement.

Indemnisation pour les biens et services essentiels

9 (1) Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.

Indemnisation

(2) Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.

Application des lois

10 (1) En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Pénalités

(2) Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité :

a) par procédure sommaire, d'une amende maximale de 500 \$ et d'un emprisonnement maximal de six mois, ou de l'une de ces peines;

b) par mise en accusation, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.

Entrée en vigueur

11 Le présent règlement entre en vigueur à la date de son enregistrement.

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Date modified: 2022-04-08



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PC Number: 2022-0108

Date: 2022-02-15

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council has reasonable grounds to believe that the measures with respect to property referred to in this Order are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Economic Measures Order*.

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il existe un état d'urgence;

Attendu que la gouverneure en conseil a des motifs raisonnables de croire que les mesures relatives aux biens prévues dans le présent décret sont fondées,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Décret sur les mesures économiques d'urgence*, ci-après.

Emergency Economic Measures Order

Definitions

1 The following definitions apply to this Order:

designated person means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations*. (*personne désignée*)

entity includes a corporation, trust, partnership, fund, unincorporated association or organization or foreign state. (*entité*)

Duty to cease dealings

2 (1) Any entity set out in section 3 must, upon the coming into force of this Order, cease

(a) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;

(b) facilitating any transaction related to a dealing referred to in paragraph (a);

(c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or

(d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

Insurance policy

(2) Paragraph 2(1)(d) does not apply in respect of any insurance policy which was valid prior to the coming in force of this Order other than an insurance policy for any vehicle being used in a public assembly referred to in subsection 2(1) of the *Emergency Measures Regulations*.

Duty to determine

3 The following entities must determine on a continuing basis whether they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person:

(a) *authorized foreign banks*, as defined in section 2 of the *Bank Act*, in respect of their business in Canada, and banks regulated by that Act;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) *foreign companies*, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;

(d) *companies*, *provincial companies* and *societies*, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;

(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities regulated by a provincial Act that are engaged in the business of insuring risks;

(f) companies regulated by the *Trust and Loan Companies Act*;

(g) trust companies regulated by a provincial Act;

(h) loan companies regulated by a provincial Act;

(i) entities that engage in any activity described in paragraphs 5(h) and (h.1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;

(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services;

(k) entities that provide a platform to raise funds or virtual currency through donations; and

(l) entities that perform any of the following payment functions:

(i) the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,

(ii) the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,

(iii) the initiation of an electronic funds transfer at the request of an end user,

(iv) the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or

(v) the provision of clearing or settlement services.

Registration requirement — FINTRAC

4 (1) The entities referred to in paragraphs 3(k) and (l) must register with the Financial Transactions and Reports Analysis Centre of Canada established by section 41 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person.

Reporting obligation — suspicious transactions

(2) Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or

(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.

Reporting obligation — other transactions

(3) Those entities must also report to the Centre the transactions and information set out in subsections 30(1) and 33(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

Duty to disclose — RCMP or CSIS

5 Every entity set out in section 3 must disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they have reason to believe is owned, held or controlled by or on behalf of a designated person; and

(b) any information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

Disclosure of information

6 A Government of Canada, provincial or territorial institution may disclose information to any entity set out in section 3, if the disclosing institution is satisfied that the disclosure will contribute to the application of this Order.

Immunity

7 No proceedings under the *Emergencies Act* and no civil proceedings lie against an entity for complying with this Order.

Coming into force

8 This Order comes into force on the day on which it is registered.

Décret sur les mesures économiques d'urgence

Définitions

1 Les définitions qui suivent s'appliquent au présent décret :

entité S'entend notamment d'une personne morale, d'une fiducie, d'une société de personne, d'un fonds, d'une organisation ou d'une association dotée de la personnalité morale ou d'un État étranger. (*entity*)

personne désignée Toute personne physique ou entité qui participe, même indirectement, à l'une ou l'autre des activités interdites au titre des articles 2 à 5 du *Règlement sur les mesures d'urgence*. (*designated person*)

Obligations de cesser les opérations

2 (1) Dès l'entrée en vigueur du présent décret, les entités visées à l'article 3 doivent cesser :

- a)** toute opération portant sur un bien, où qu'il se trouve, appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions;
- b)** toute transaction liée à une opération visée à l'alinéa a) ou d'en faciliter la conclusion;
- c)** de rendre disponible des biens — notamment des fonds ou de la monnaie virtuelle — à une personne désignée ou à une personne agissant pour son compte ou suivant ses instructions, ou au profit de l'une ou l'autre de ces personnes;

d) de fournir des services financiers ou connexes à une personne désignée ou à son profit ou acquérir de tels services auprès d'elle ou à son profit.

Police d'assurance

(2) Toutefois, l'alinéa 2(1)d) ne s'applique pas à l'égard d'une police d'assurance effective — au moment de l'entrée en vigueur du présent décret — portant sur un véhicule autre que celui utilisé lors d'une assemblée publique visée au paragraphe 2(1) du *Règlement sur les mesures d'urgence*.

Vérification

3 Il incombe aux entités mentionnées ci-après de vérifier de façon continue si des biens qui sont en leur possession ou sous leur contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte :

- a)** les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre de leurs activités au Canada, et les banques régies par cette loi;
- b)** les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;
- c)** les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre de leurs activités d'assurance au Canada;
- d)** les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;
- e)** les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;
- f)** les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;
- g)** les sociétés de fiducie régies par une loi provinciale;
- h)** les sociétés de prêt régies par une loi provinciale;
- i)** les entités qui se livrent à une activité visée aux alinéas 5h) et h.1) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*;

- j) les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à fournir des services de gestion de portefeuille ou des conseils en placement;
- k) les plateformes collaboratives et celles de monnaie virtuelle qui sollicitent des dons;
- l) toute entité qui exécute l'une ou l'autre de fonctions suivantes :
 - (i) la fourniture ou la tenue d'un compte détenu au nom d'un ou de plusieurs utilisateurs finaux en vue d'un transfert électronique de fonds,
 - (ii) la détention de fonds au nom d'un utilisateur final jusqu'à ce qu'ils soient retirés par celui-ci ou transférés à une personne physique ou à une entité,
 - (iii) l'initiation d'un transfert électronique de fonds à la demande d'un utilisateur final,
 - (iv) l'autorisation de transfert électronique de fonds ou la transmission, la réception ou la facilitation d'une instruction en vue d'un transfert électronique de fonds,
 - (v) la prestation de services de compensation ou de règlement.

Inscription obligatoire — Centre

4 (1) Les entités visées aux alinéas 3k) et l) doivent s'inscrire auprès du Centre d'analyse des opérations et déclarations financières du Canada constitué par l'article 41 de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* s'ils ont en leur possession un bien appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions.

Opérations douteuses

(2) Elles doivent également déclarer au Centre toute opération financière effectuée ou tentée dans le cours de ses activités et à l'égard de laquelle il y a des motifs raisonnables de soupçonner qu'elle est liée à la perpétration — réelle ou tentée — par à une personne désignée :

- a) soit d'une infraction de recyclage des produits de la criminalité;
- b) soit d'une infraction de financement des activités terroristes.

Autres opérations

(3) Elles doivent également déclarer au Centre les opérations visées aux paragraphes 30(1) ou 33(1) du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes*.

Obligation de communication à la GRC et au SCRC

5 Toute entité visée à l'article 3 est tenue de communiquer, sans délai, au commissaire de la Gendarmerie royale du Canada ou au directeur du Service canadien du renseignement de sécurité :

- a)** le fait qu'elle croit que des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte;
- b)** tout renseignement portant sur une transaction, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).

Communication

6 Toute institution fédérale, provinciale ou territoriale peut communiquer des renseignements au responsable d'une entité visée à l'article 3, si elle est convaincue que les renseignements aideront à l'application du présent décret.

Immunité

7 Aucune poursuite en vertu de la *Loi sur les mesures d'urgence* ni aucune procédure civile ne peuvent être intentées contre une entité qui se conforme au présent décret.

Entrée en vigueur

8 Le présent décret entre en vigueur à la date de son enregistrement.

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Proclamation Revoking the Declaration of a Public Order Emergency: SOR/2022-26

Canada Gazette, Part II, Volume 156, Extra Number 2

Registration

SOR/2022-26 February 23, 2022

EMERGENCIES ACT

Proclamation Revoking the Declaration of a Public Order Emergency

Mary May Simon

[L.S.]

Canada

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories QUEEN, Head of the Commonwealth, Defender of the Faith.

François Daigle

Deputy Attorney General of Canada

Great Seal of Canada

TO ALL TO WHOM these presents shall come or whom the same may in any way concern,

GREETING:

A Proclamation

Whereas a declaration of a public order emergency throughout Canada was made by proclamation on February 14, 2022;

Whereas the temporary and exceptional measures taken under the declaration of a public order emergency have been effective to address the circumstances that existed throughout Canada on February 14, 2022 and the ongoing threats, as evidenced by the circumstances that were occurring in Ottawa and at various border crossings in Ontario, Manitoba, British Columbia, Alberta and elsewhere with respect to continuing blockades and the continuing threats to oppose measures to remove the blockades;

Whereas, in light of these facts, the Governor in Council believes that sufficient powers, without those temporary and exceptional measures, exist to resolve any residual, or prevent any new, illegal blockade or public assembly that may reasonably be expected to lead to a breach of the peace;

And whereas the Governor in Council believes that the declaration of a public order emergency throughout Canada is no longer necessary;

Now Know You that We, by and with the advice of Our Privy Council for Canada, pursuant to section 22 of the *Emergencies Act*, do by this Our Proclamation revoke the declaration of a public order emergency made by proclamation on February 14, 2022, throughout Canada, effective on the day on which this proclamation is issued.

In testimony whereof, We have caused this Our Proclamation to be published and the Great Seal of Canada to be affixed to it.

WITNESS:

Our Right Trusty and Well-beloved Mary May Simon, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit, Chancellor and Commander of Our Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

At Our Government House, in Our City of Ottawa, this twenty-third day of February in the year of Our Lord two thousand and twenty-two and in the seventy-first year of Our Reign.

BY COMMAND,

Simon Kennedy

Deputy Registrar General of Canada